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COMMITTEE ON THE RIGHTS OF THE CHILD

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Initial reports of States parties due in 1994

LATVIA

[25 November 1998]

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I. INTRODUCTION

1. The Republic of Latvia submits its initial report on the Convention on the Rights of the Child (the Convention) in accordance with the Article 44.

2. The report was prepared by the working group, including experts from the Ministry of Welfare, Ministry of Justice, Ministry of Education and Science, Ministry of Interior, Ministry of Foreign Affairs, Ministry of Culture, Ministry of Environment Protection and Regional Development, Ministry of Economy, State Statistics Committee, State Coroner's Medical Inquest Centre, National AIDS Centre and other public organisations such as National Human Rights Office, Organisation "Save the Children" and Latvian Children's Fund.

Background information about Latvia

3. Latvia is a parliamentary democracy, having regained its independence in 1991. The Declaration of the Supreme Council of the Latvian SSR "On the Renewal of the Independence of the Republic of Latvia" of 4 May 1990 stated that *"the independent State of Latvia, founded on 18 November 1918, was granted international recognition in 1920, and became a member of the League of Nations in 1921"*.

4. The right to self-determination of the people of Latvia was expressed in April 1920 when the people of Latvia gave their mandate to the Constitutional Assembly chosen by universal, equal, direct and proportional elections. In February 1922 the Assembly adopted the Constitution of the Republic of Latvia (*Satversme*).

5. The ultimatum of 16 June 1940 from the Stalinist government of the Soviet Union to the Latvian Government, asking for its resignation, and the ensuing military aggression, resulted in the occupation of Latvia. The elections of 14 and 15 July 1940 to the Parliament (*Saeima*) of occupied Latvia were held under conditions of political terror after an illegal and unconstitutional election law had been adopted. Of the 17 lists of candidates submitted, only one was permitted in the elections - the list of the Working People's Bloc. The pre-election platform of the bloc did not include any demand to establish Soviet power in Latvia or to join the Soviet union. The results of the elections were falsified. The illegally and fraudulently formed Parliament did not represent the will of the Latvian people. It had no constitutional powers to change the system of government and bring an end to the sovereignty of Latvia. Only the people had the right to decide these matters, but no referendum was held.

6. Hence the incorporation of Latvia on 5 August 1940 into the Soviet Union is considered to be invalid in accordance with international law. The will of the residents of Latvia was unmistakably expressed by the election to the Latvian Supreme Council in 1990 of a majority of deputies who had expressed a determination to restore the independence of the Republic of Latvia.

7. Being determined to restore *de facto* the free, democratic and independent Republic of Latvia, the Supreme Council of the Latvian SSR on 4 May 1990 decided to recognise the supremacy of the fundamental principles of international law over national law and to declare invalid the decision of the Parliament of Latvia of 21 July 1940 on the Republic of Latvia joining the Soviet Union. Furthermore, it decided "to re-establish the authority of the Constitution of the Republic of Latvia adopted by the Constitutional Assembly on 15 February 1922, in the entire territory of Latvia".

8. On 17 September 1991 Latvia become a member of the United Nations.

State framework

9. Latvia is an independent democratic republic. The *Saeima* (Parliament) consists of 100 *Saeima* members elected in general, direct, secret and proportional elections. The *Saeima* is elected for a period of four years. The President of State is elected by the *Saeima* for a period of four years and the same person cannot hold office as the President of State for more than two consecutive terms. The President of State nominates the Prime Minister. The Prime Minister forms the government (the Cabinet of Ministers) and receives the confidence of the *Saeima* (Parliament).

10. Latvia has a three-level court system:

- District (city) courts try civil, criminal and legally administrative cases;
- Regional courts try those civil and criminal cases that fall within their authority according to the law; regional courts are also the courts of appeal for those cases that have been tried by district (city) courts;
- The Supreme Court is the Court of Appeal and Cassation for all cases tried by regional courts and district (city) courts.

11. The establishment of the *Satversme* Court (Constitutional Court) in 1996 completed the judicial reform in Latvia. The Court, *inter alia*, is empowered to review compliance of the national legal norms to the provisions of international agreements, entered in force for Latvia (article 16). The law does not empower the individual in his/her own capacity to lodge a complaint on the violation of the international provisions in the Constitutional Court.

12. Latvia has made significant advances in its economic and political development since restoring independence in 1991 and embracing comprehensive market reforms. During the last several years, the Government continued the structural reform of the economy, accelerated privatisation, strengthened the banking and financial system, and further stabilised macroeconomic situation. Since 1996, the Latvian economy has been on a steady growing path. In 1997, GDP grew by 6.5%. Growth has been broad-based, with particularly strong performance in the transportation and communication services and construction. The share of services in GDP structure is approaching 62%.

13. The private sector dominates GDP, making up for approximately 62% of value added.

14. Consistently tight monetary and fiscal policies have reduced the inflation to a single-digit level (7% in 1997).

15. Basic macroeconomic indicators in 1997:

GDP growth	6.5%
Inflation	7.0%
Unemployment	7.3%
Government fiscal surplus	0.7% of GDP
External debt	7.0% of GDP
Foreign trade turnover growth	23.1%
Total foreign direct investment (FDI)	US$847.4 million
FDI per capita	US$344

16. Since transition the government implemented a strict fiscal policy through a major revenue mobilisation effort combined with expenditure restraint. Latvia has made good progress in establishing the institutions needed for fiscal management in a market economy; important among

these are a well-functioning treasury system that has been set up for central Government operations, and a tax system geared toward the needs of a market-based economy.

17. The general government fiscal deficit was reduced from 3.4% of GDP in 1995 to 1.9% in 1996. Fiscal surplus of 0.7% was registered in 1997. The fiscal stance in 1996-1997 contributed to lower inflation and higher private sector investment.

18. Central government general budget (millions lats) 1997

Revenue	586.8
Tax revenue	474.8
Non-tax revenue	112.0
Expenditure	548.4
Current expenditure:	274.1
wages and salaries	118.3
employer's social tax payments	36.9
payments on goods and services	118.9
Interest payments on loans, grants, subsidies:	208.9
Capital expenditure:	31.3
investments	20.4
Other expenditure:	3.6
Revenue surplus or financial deficit (-)	38.4
Budget lending and repayment	34.4
domestic lending	11.0
external lending	23.4
Revenue surplus or fiscal deficit (-)	4.0
Budget financing sources	
Domestic financing	- 16.9
from other government administration bodies	36.9
from the Bank of Latvia	-27.4
from commercial banks	-32.3
Foreign financing	12.8

19. Since 1996 the central Government and local government budget revenues and expenditures are presented according to the classification laid down by the Ministry of Finance. This classification corresponds to the classification requirements set by international financial institutions.

Population

20. There were 2,454,617 permanent residents in Latvia at the beginning of 1997 out of which 23.5% were children up to age 17. Since 1991 the number of inhabitants has been gradually decreasing. Over the last five years the population of Latvia has decreased by more than 138,000 persons, mainly due to migration, as many of the inhabitants of the former USSR Republics returned to the countries of their origin.

21. During the last five years the number of newborns has decreased every year on the average by 5,000. The natural growth of population in Latvia was positive for the last time in 1990, when the birth-rate was 1.09, while in 1994 it was 0.59. Since 1991 the natural growth of population has been

negative - the number of those who died exceeds those who were born. In 1995 the birth-rate was almost half that in 1987 when the birth-rate was the highest in the post-war period. In 1997 18,830 children were born in Latvia, which constitutes a rate of 7.6 per 1,000 inhabitants. The death rate is 13.6 per 1,000 inhabitants, which gives a negative increase of population (-6.0). The infant mortality rate is 1.52%, according to the data of the State Statistics Committee.

22. The number of marriages in 1997 was 3.9 per 1,000 inhabitants, divorces were 2.5 per 1,000 inhabitants. In the same year 6,553 children were born out of wedlock, which constitutes 34.8% of total number of children born.

II. GENERAL MEASURES OF IMPLEMENTATION OF THE CONVENTION

23. The instrument of accession of the Republic of Latvia to the Convention was deposited with the Secretary-General on 14 April, 1992. The Convention entered into force for Latvia on 14 May 1992. Latvia acceded to the Convention without reservations.

Relevant legislation

24. There has been an important body of Latvian laws providing legal grounds for implementation of most of the provisions of the Convention since 1991. The Constitutional Law "The Rights and Obligations of a Citizen and a Person", the Criminal Code, the Criminal Procedure Code, the Law "On the Unrestricted Development and Rights to Cultural Autonomy of Latvia's National and Ethnic Groups", the Education Law and others contain relevant provisions guaranteeing protection of the rights of the child. Nevertheless, the rapidly changing political, social and economic environment necessitated the adoption of the legal provisions to meet new challenges of an open democratic society, based on the rule of law and market economy.

25. The Law "On the Protection of the Rights of child" was adopted on 19 June 1998. It is based on the principles of the Convention and the purpose of the Law is to define the rights and freedoms of the child, the obligations of the child towards his/her family as well as the rights and obligations of the parents, legal guardians and other persons towards the child.

Institutional framework

26. On 3 June 1992 the Supreme Council of the Republic of Latvia took a decision to accept the World Declaration on the Survival, and Development of children, meanwhile urging the council of Ministers to undertake definite measures to elaborate a programme in order to ensure the protection of the rights of the child. The work on the programme however, was accomplished only in 1994.

27. As a result, in March 1994 the Commission for the Protection of Children's Rights was established at the Cabinet of Ministers with the aim to advise the Government on the policy issues related to the protection of the rights of the child in the light of the convention, World Declaration and other relevant international documents. The Commission is composed from the representatives of various governmental agencies and is led by the Minister of Education and Science.

28. The above-mentioned Commission coordinates the establishment of institutions dealing with the promotion and protection of the rights of the child on the governmental level, evaluates national programmes for the implementation of the relevant provisions of the Latvian legislation and international legal acts. The Commission has the right to submit proposals to the government and Parliament on measures necessary to ensure the protection of the rights of the child.

29. Two ministries - the Ministry of Education and Science and the Ministry of Welfare - are assigned the duty to carry out the policy-making tasks with respect to children. At the Ministry of Education and Science the Department of Youth Affairs has been established. One of its main tasks is to contribute to the elaboration of a unified system of the protection of the rights of the child in Latvia.

30. In August 1995 the Children's rights Protection Centre within the Ministry of Education and Science commenced its work. The Centre, as an executive body for the governmental Commission, plays a coordinating and consultative role for a wide network of regional centres. Its tasks include, *inter alia*, to provide regional centres with the necessary information advice and teaching materials regarding the protection of the rights of the child. These centres also monitor the practical implementation of the legal instruments and may, if necessary, represent children before the court.

31. In the Ministry of Welfare there is a Division of Children and Family within the Department of Social Aid. The Division is the main institution responsible for elaboration of the policy on social aid measures to guarantee the well-being of orphans, children without parental care and children victims of violence. the Division has established, maintains and regularly updates a data base of the children cared for by the State. This information is used to organise adoption both within Latvia and to a foreign country. The Division closely cooperates with the social services of local governments, children's courts and NGOs.

32. In 1995 the Law "On the Children's Courts and County Courts" was adopted. According to the said law, children's courts and county courts are established in every city and county respectively.[1] Their task is, *inter alia*, to cooperate with health-care institutions, social services and police in order to assist children in need (to decide on assistance for families where the well-being of a child is not adequately ensured, to organise adoption) and to represent children in their relations towards other institutions, officials and, if necessary, towards his/her parents.

33. The National Human Rights Office (LNHRO) - an independent institution whose task is to promote and protect human rights - was established by a special law in December 1996. The Office is given the mandate to raise awareness and promote understanding and observance of human rights; inquire into allegations of individual human rights violations in both public and private sectors; on its own initiative investigate human rights-related issues and problems in Latvia; advise on compliance of Latvia's laws and practices with its national and international obligations in the field of human rights; and coordinate programme which promote observance of human rights.

34. The Office is a national institution, which gives tangible expression to the conclusions of the World Conference on Human Rights, held in Vienna in 1993. It has organised several public awareness arising actions, especially during the initial stage of its activities, such as a large-scale campaign, including the establishment of a children's telephone hot-line, to bring the issues of the rights of the child to the attention of the public. The LNHRO has made recommendations to the *Saeima* and various government working groups on such issues as abandoned children (foundlings) and sexual exploitation of children and has contributed to work of the governmental commission for the protection of the rights of the child.

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[1] In the report the term "children's court" means both the children's court and the county courts, if not specified otherwise, as their tasks are identical. The term "the court", in turn, means courts as described in paragraph 10 of this report.

III. DEFINITION OF THE CHILD

Age of attainment of majority

35. Article 219 of the Latvian Civil Law states that a child is a person under the age of 18. Article 220 of the said Law provides that in exceptional cases the court may decide that a child who is at least 16 years of age is recognised as having attained majority if his/her parents or guardians acknowledge the ability of the child to protect his/her rights and to fulfil obligations.

Legal minimum ages for legal/medical counselling without parental consent

36. The Latvian legislation does not determine any age restrictions for receiving legal counselling. A child may request legal assistance at any age and it is the responsibility of an advocate to guarantee such assistance. The Law "On Advocates" defines the obligations of an advocate towards the persons requesting legal assistance and stipulates that an advocate may not refuse the requested assistance without stating serious obstacles. Moreover, according to various legal acts, any institution making a decision which has direct impact on a child must take into account the views of the child.

37. The Constitutional Law "The Rights and Obligations of a Citizen and Person" states that "everyone has the right to medical treatment. The State protects the health of the population and guarantees everyone the minimum medical care specified by law". The 1997 Medication Law and the government regulations adopted for the implementation if this Law stipulate that it is the responsibility of the State to provide funding for minimum medical treatment of children under the age of 18 and establish exceptions for children from the payment for medical services.

End of compulsory education

38. The Constitutional Law "The rights and Obligations of a Citizen and Person" provides that everyone has the right to education. The State provides primary compulsory education free of charge, and ensures further schooling according to the abilities of the child. It is the responsibility of the parents or legal guardian to ensure that the child receives an education in accordance with his/her abilities. Education is compulsory for children until the attainment of 15 years of age or graduation from a primary school. Primary education includes grades 1 - 8 and secondary education includes grades 9 - 12.

Employment

39. The Labour Code regulates employment in Latvia. The Code states that children under the age of 15 may not be employed in a full-time position. With the consent of a parent or guardian and following a medical examination, children from the age of 13 can be employed part-time. Employment must be outside of school hours and under conditions that are not harmful to the safety, health or development of young persons. Persons under the age of 18 may not be employed during night hours and public holidays. They are entitled to payment not lower than the established minimum and to one month of paid annual holidays.

The legal age of sexual consent

40. Under the Criminal Code, it is prohibited to have sexual intercourse and other sexual relations with a child under the age of 16.

The age of marriage

41. the Civil Law states that a person must be 18 years of age to contract marriage. A minor between the ages of 16 and 18 may contract marriage only with the consent of the parents and authorities provided that the marriage is contracted with a person who has attained majority.

Voluntary enlistment and conscription into the armed forces

42. A person must be at least 18 years of age to voluntarily enlist in the armed forces. The duty to perform compulsory military service applies to citizens who have attained 19 years of age. Women may voluntarily enlist upon reaching 18 years of age. The compulsory military service, according to the law, is 12 months.

Voluntarily giving testimony in court

43. There are no provisions in Latvian legislation restricting the rights of the child to give testimony without parental consent. Under the Criminal Procedure Code, if the child is a witness in a criminal case, then he/she gives evidence in the presence of his/her parents and children's rights protection inspector. Before giving testimony, a child is informed that he/she has the statutory right not to testify against the members of his/her family. It is the responsibility of the court and its officials to decide on the presence of the parents, taking into account the circumstances of a particular case. A minor who is accused, if necessary, is cross-examined in the presence of a pedagogue and other legal representatives. If the minor has not attained 16 years of age the presence of a legal representative, pedagogue or psychologist is compulsory.

Criminal liability

44. The Criminal Code states that criminal liability is applicable to persons who have attained 16 years of age. An exception exists if a heavy and serious offence has been committed - then criminal liability is possible from the age of 14.

45. The Criminal Code states that persons under the age of 18 cannot be sentenced to life imprisonment or capital punishment.

Deprivation of liberty and imprisonment

46. According to the Latvian legislation, detained or imprisoned children are kept separately from adults; men and women are kept separately as well. It is provided that children serve the sentence in correction facilities for minors notwithstanding the severity of the sentence.

47. Upon attainment of majority, i.e., 18 years of age, a child is transferred to the facilities for adults. However, the Administrative Commission of the correction facility may decide that it is in the interests of the person (e.g., necessity to complete education) to remain in the correction facility for minors until a person has attained 21 years of age.

Consumption of alcohol or other controlled substances

48. A person must be 18 years of age to purchase and consume alcohol and cigarettes. According to the existing legislation, the shop-assistant, if necessary, has the right to require from the customer to produce a personal identification document in order to establish his/her age. The sale and use of narcotics is illegal.

The right to vote

49. A citizen must be 18 years of age to vote in the local or parliamentary elections. In order to be registered as a candidate for the Parliament or local government, a citizen must be 21 years of age.

The right to drive a motorised vehicle

50. A person must be 18 years of age to receive a driving license for motor cars and 16 years of age for a motorcycle.

IV. GENERAL PRINCIPLES

Non-discrimination

51. The Constitutional Law "The Rights and Obligations of a Citizen and a Persons" states that "all persons in Latvia are equal before the law irrespective of their race, nationality, sex, language, political affiliation, political or religious beliefs, social, property and professional status and origin". The Law "On the protection of the Rights of the Child" also stipulates that the State guarantees equal rights and freedoms for all children without discrimination as to race, nationality, language, political or religious beliefs, social origin, property and professional status of a child or his/her parents, guardians or family members.

52. Under the Criminal Code it is an offence to discriminate, threaten, insult or degrade on the basis of race, ethnic origin or religious beliefs.

Best interests of the child

53. The Law "On the Protection of the Rights of the Child" states that in all legal matters affecting the child the rights and interests of the child are to be given priority. Under the Family Law Division of the Civil Law, the custody of children under the age of 18 is vested with the parents, and they are responsible for the well-being of their children. They have an obligation to ensure the education and development of a child taking into account the wishes and abilities of the child. Criminal action can be taken against a parent who maliciously avoids the fulfilment of these obligations.

54. Until attainment of majority children are not allowed to fully decide all matters relating to their personal affairs, particularly regarding their property. The parents or guardians have the right and obligation to act on behalf of the child, and while in their custody, a child has an obligation to obey the decisions of the parents or legal guardians.

55. The parents or legal guardians also have the right to restrict the rights and freedoms of the child if it is necessary for his/her safety and is in the interests of the child. However, if the child considers restrictions of his/her rights or freedoms as unjustified or disagrees with the decision of the parents or guardians concerning the property of the child, he/she has the right to seek assistance from the children's court.

The rights to life, survival and development

56. Article 1 of the Constitutional Law "The Rights and Obligations of a Citizen and a Person" proclaims that the right to life of every person is the foundation and greatest value of the country. A child has the inherent right to the highest standard of physical and mental well-being. It is the responsibility of the State to guarantee to the maximum extent possible the survival and development of the child.

57. Existing legislation provides for State support to all families with children. The Law "On Social Aid" established legal grounds for maternity benefits, aid for mothers' on extended leave of absence due to the birth of a child, and for monthly financial assistance for families with children. Moreover, local governments are entrusted to provide social assistance for persons from society's vulnerable groups.

58. In recent years, NGOs have played an important role in providing financial and humanitarian aid, and in organising educational and recreational activities (summer camps, retreats). NGO's, in cooperation with UNICEF, published and distributed a brochure on breastfeeding and informed young mothers about different stages of child development.

Respect for the views of the child

59. The Constitutional Law "The Rights and Obligations of a Citizen and a Person" states that everyone has the right to freely obtain and disseminate information and to express one's views and opinions. Under the existing legislation, it is the obligation of the respective authorities to consider the views of the child when a decision affecting the child is taken.

60. Thus, under the Citizenship Law[2] the citizenship of a child who is over 14 years of age may be changed together with that of his/her parents or legal guardians only if the written consent of the child is submitted. A child who has reached 16 years of age may submit an application to change his name, surname or nationality.

61. According to the Civil Law, in case of a divorce the court, in deciding which parent will have custody, must take into account the views of a child who is over 7 years of age. For adoption the consent of a child who has reached 12 years of age is necessary.

62. The Law "On Religious Organisations" provides for the right of a child who is 14 years of age or over to request the inclusion of religious teaching within the school curricula.

63. The Criminal Code states that a child has the right to be informed of any charges brought against him/her, the right to legal counsel and the right to witness and submit evidence.

V. CIVIL RIGHTS AND FREEDOMS

64. Currently the main legal document guaranteeing civil rights and freedoms is the Constitutional Law "The Rights and Obligations of a Citizen and a Person". It does not specifically address the issue of the civil rights of the child but these rights can be seen from the broader context of the rights of the individual. Particular aspects of civil rights and freedoms are further elaborated in the whole body of Latvian laws, particularly in the Citizenship Law, the Law "On the Unrestricted Development and Right to Cultural Autonomy of Latvia's National and Ethnic Groups", the Law "On the Protection of the Rights of the Child". The Criminal Code establishes sanctions for violations of these rights.

Name and citizenship

65. Every child must be registered within one month after his/her birth. Upon registration a child is given a name(s) and the surname of his/her parents. If the parents have different surnames, it is the responsibility of the parents to agree on the surname of the child.

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[2] In Latvian, term "citizenship" describes the legal link between the person and the State. The term "nationality", on the other hand, is used to describe a person's ethnic origin.

66. The Citizenship Law states that a child is a citizen of the Republic of Latvia if both of his/her parents are citizens of Latvia, regardless of their place of residence, or if the child is an orphan or is cared for by the State, or if the child is found on the territory of Latvia and there is no information regarding his/her parents.

67. If at the time of birth one of the child's parents is a citizen of Latvia, but the other is a foreign citizen, the child has the right to be a citizen of Latvia if he/she is born on the territory of Latvia, or he/she is born outside Latvia, but the parent with whom the child is living is a permanent resident of Latvia. If one of the child's parents is a citizen of Latvia, but the other is a stateless person, the child is a citizen of Latvia regardless of the place of birth.

68. The Latvian National Human Rights Office, the Ministry of Welfare and several NGO have made recommendations to amend the Law on Citizenship to address the issue of citizenship for children that are wards of the State. Moreover, amendments to the Citizenship Law have been elaborated and currently are under the constitutional procedure of referendum. According to these amendments, Latvian citizenship would be granted to all children born on the territory of Latvia after renewal of independence in 1991. The Government is ready to provide the Committee with the latest information on these amendments during the consideration of the report.

Preservation of identity

69. In accordance with the Citizenship Law and the Law "On the Unrestricted Development and right to Cultural Autonomy of Latvia's National and Ethnic Groups", ethnic origin (nationality) is a characteristic which is a part of a person's identity. The Law "On the Unrestricted Development and Right to Cultural Autonomy of Latvia's National and Ethnic Groups" states that a person who is 16 years of age and is a citizen, permanent resident of Latvia or a foreign citizen permanently residing in Latvia, has the right to his/her ethnic identity and origin and has the right to change or renew his/her former ethnic origin.

Freedom of expression

70. In accordance with Latvian legislation, every person has the right to express and publish his/her ideas in print, in writing or orally. Everyone has the right to express their opinions, beliefs, and ideas, including through drawings, pictures and other forms of expression.

71. The freedom of expression is enjoyed by everyone, children as well as adults, and the exercise of the freedom of expression may be restricted by public authorities to the same extent as for adults.

72. Within the school system, children have the right to establish school parliaments and councils to express their opinions on issues relating to their schooling and having direct impact on them.

Access to appropriate information

73. Latvian legislation foresees that every person has the right to have access to information as well as to distribute it.

Dissemination of information

74. One of the responsibilities of the Latvian National Radio and Television Board is to provide the public with educational, cultural, scientific and other information. Currently, public television stations provide 7% of the air-time for children's programmes (an increase up to 9% is envisaged for 1999).

75. The Law "On the Protection of the Rights of the Child" provides that it is the responsibility of the State to ensure that in schools every child can receive information regarding their rights. The Convention on the rights of the Child has been translated and published by the Government and NGOs. Since the 1996/97 school year, the Convention has been included in the civic education curricula of all elementary schools.

76. NGOs have published the text of the Convention in a format that is presented in a user-friendly manner and is understandable for children. Many informative brochures, books and magazines on human rights for teachers, parents and children have been published as well.

Protection from injurious information

77. The Law "On the Protection of the Rights of the Child" states that it is prohibited to demonstrate, sell, or disseminate by other means among children publications, video materials or other information which depict violence, cruelty or pornography. The Law also states that the advertising of cigarettes and alcohol should be restricted to protect children from the harmful effect of these substances.

78. According to the Law "On Radio and Television" it is the responsibility of the Latvian National Radio and Television Board to ensure that programmes which are considered inappropriate for children are broadcast at times when a child does/should not have access to the media, or by informing the public through informative commercials that certain programmes may be inappropriate for young viewers. The mandate of the board states that channel operators have the responsibility not to broadcast programmes that could harm or negatively affect the normal physical, mental, or moral development of children. An exception is between the hours of 22.00 and 7.00. Programmes of this type must be visibly identified when they are advertised and broadcast.

79. Movie theatres must publicly display whether movies are deemed to be appropriate for persons under the age of 18 and prohibit underage persons from entering the movie theatre.

80. The 1996 Law "On the restriction of Production, Circulation, Advertising of Tobacco and Smoking" establishes the State control over production, import, circulation and advertising of tobacco and cigarettes. The Law states that advertising of cigarettes is prohibited in all educational institutions and that any advertisement of cigarettes in mass media should contain information on the harmful effect of smoking. The Law also prohibits advertising of tobacco on buildings and walls (except places where tobacco can be purchased), on the roads and other public places.

81. Government regulations have also been adopted to protect children from the production, dissemination, public demonstration and advertising of pornographic and erotic materials.

Freedom of thought, conscience and religion

82. The Constitutional Law "The rights and Obligations of a Citizen and a Person" states that everyone has the right to freedom of thought, conscience and religion. The Criminal Code states that no discrimination is allowed on the basis of a person's religious beliefs or convictions.

83. The Education Law states that religious and political beliefs of families cannot be infringed upon or be the basis for discrimination. Every child has the right to participate in extracurricular activities including the right to practice his/her religion as well as to attend Sunday school. Religious teaching can be included in the school curriculum if 10 or more children request such action to be taken and their parents/guardians give their consent.

84. The Law "On religious Organisations" guarantees everyone the right to practise and exercise their religious beliefs and to form congregations. This Law also states that parents or legal guardians have the right to raise the child in accordance with their own religious beliefs. Children under the age of 18 are not allowed to found religious organisations, but they can become members of such organisation with the consent of their parents or guardians.

85. Religious organisations and congregations are allowed to perform their work in places of confinement, correctional facilities, hospitals and other public institutions if so requested.

Freedom of association and peaceful assembly

86. The Constitutional Law "The Rights and Obligations of a Citizen and a Person" guarantees that everyone has the freedom of assembly, meetings, and demonstrations. The Law "On the Protection of the rights of the Child" states that a child's freedom of association and assembly may be restricted in order to protect his/her life or well-being.

87. Latvian legislation foresees the right of any person, having attained 16 years of age, to become a member of an NGO. Persons under the age of 16 may do so with the written consent of their parents or guardian.

Protection of privacy

88. The Constitutional Law "The Rights and Obligations of a Citizen and a Person" guarantees the confidentiality of correspondence, telephone conversations, and telegraph and other communications. It also guarantees the privacy of one's home. House search, seizure, and examination of correspondence or any breach of the secrecy of postal, telegraph and telephone matters must take place only following a court order. The Criminal Code foresees criminal liability in case these rights have been violated.

89. Similar provisions have been included in the Law "On the Protection of the rights of the Child", which protects the privacy of the child's home and states that a child's correspondence is confidential.

90. The Civil Law states that in the case of a child's adoption, documents and information concerning the adoption are confidential. The Criminal Code contains sanctions for the violation of this rule.

91. A progressive step has been taken regarding teacher/pupil relations. A code of ethics for teachers has been drafted which sets out principles governing relations between teachers and pupils that are based on respect and responsibilities of both parties.

The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment

92. Both the Constitutional Law and the Law "On the Protection of the Rights of the Child" provide that torture or other cruel, inhuman or degrading treatment or punishment is prohibited.

93. The Criminal Code states that persons who have subjected children to cruel, inhuman or degrading treatment, including sexual abuse, are punishable by law. The Code states that persons under the age of 18 cannot be sentenced to life imprisonment or capital punishment.

94. If parent(s) or legal guardian does not fulfil their obligation to guarantee the child's well-being and upbringing, including the child's education, administrative action can be taken against them.

VI. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

Parental guidance and responsibilities

95. The Constitutional Law "The Rights and Obligations of A Citizen and a Person" states that the family and marital rights, as well as the rights of the mother and the child, are protected by the State. It also states that the care and upbringing of children are in the first instance the right and responsibility of the parents or the guardians. The role of the State is to assist the parents or guardians in fulfilling their responsibilities towards their children. The State also guarantees special protection and assistance to children who are left without parental care.

96. The Civil Law states that children under the age of 18 are subject to the custody of their parents or guardians. It is the responsibility of parents/guardians to raise the child respecting the child's individuality and abilities. A parent must guarantee the basic needs of a child such as food, shelter and clothing, as well as the child's welfare and education.

97. Latvian legislation emphasises the rights of parents and children to live together in a family. During marriage both parents have joint custody of the child. In the event of a legal separation or divorce, the parents must decide who will have custody of the child. If the parents fail to agree, the court will decide on the issue taking into account the interests of the child. The Civil and Education Laws specify that parents have the right and responsibility to be informed of events affecting their child and to be present at the most important moments of the child's life.

98. In order to support families with young children the Labour Code provides women with the statutory right to maternity leave related to pregnancy and birth. Similar guarantees have been envisaged for persons who have adopted children or become their guardians.

99. Specific norms apply to civil servants. The Law "On the Civil Service" provides civil servants the right to take leave of absence for the first year of the child's life. It also states that a civil servant who has a child under the age of three cannot be sent on business trips without his/her consent.

100. Under the existing legislation, women who have children up to 36 months old should be allotted, besides the usual break for rest and meals, an additional pause for child feeding. The pauses, which are not less than 30 minutes, are given not less seldom than every three hours. If there are two or more children this break may be longer. Women who breastfeed their children until 1½ years of age are entitled to an additional half-hour break during the work day. Beside, the breaks for child feeding are included in the working time and are paid according to the average salary. The mother of a child that is below the age of 14 (16 if the child is disabled) cannot be employed overtime and cannot be sent on business trips without her consent. Mothers have the right to take leave from their place of employment until the child has reached three years of age. Women who have a child under the age of three do not have to work a full day, but are entitled to a full salary.

101. In accordance with the Law "On Local Governments," every local government must establish a social assistance centre to be able to broaden the type of services provided for children and their well-being. The Laws "On Social Security" and "On Social Aid" guarantee that persons raising children are entitled to receive social assistance. It is the responsibility of the local governments to provide assistance to families with children.

Separation from parents

102. According to the Civil Law , custody of a child ceases in cases where the parent or child dies, when the child has been adopted by a third party with the consent of his/her parents, when the child has reached the age of majority or when the right to custody has been removed by a court decision.

The Civil Law also states that if a child becomes an orphan or if custody rights have been taken away from the parents, the State appoints a temporary or permanent guardian. The State provides remuneration to the guardian.

103. If a child has committed a crime, he/she also can be separated from his/her family while parents maintain their custody rights. In such cases the child would be placed in a juvenile correction facility in accordance with the Criminal Procedure Code.

104. In situations where a decision must be taken on the separation of a child from his/her parents, the Civil Procedure Code and Criminal Procedure Code ensure the rights of all interested parties to express their views. The parents have a right to be present in proceedings regarding the decision to remove custody rights. If the parents fail to attend and knowingly abuse their right to attend, a decision can be taken without their presence.

105. Article 182 of the Civil Law states that following the separation of the child from his/her parents, both parties have the right to maintain contact. Contact includes the right of the parents to visit the child and vice versa. It also includes the right to contact via correspondence and telephone. Exceptions exist if it is believed and decided by the court that such contact can be detrimental to the well-being of the child. If the parents want to maintain contact with the child but the child does not want to, it is the responsibility of the children's court to act on the behalf of the child and decide what is in the best interests of the child.

106. The intention of removing custody rights from a child's parents is to achieve the return of the child to his/her family when his/her parents are recognised to be capable of fulfilling their parental obligations. When the children's court establishes that the reason due to which the custody rights have been removed have ceased to exist, the custody rights can be restored.

Family reunification

107. The Constitutional Law provides that the family is protected by the State. To this end various legal acts contain norms encouraging reunification of the family. Thus, the Constitutional Law states that all citizens and permanent residents have the right to freedom of movement, including the right to enter and leave the territory of Latvia.

108. The Law "On Entry and Residence of Foreign Citizens and Stateless persons in the Republic of Latvia" states that children under the age of majority can enter Latvia together with their parents, guardians or other persons who are responsible for them. Children are allowed to enter the territory of Latvia to join their parents or guardians.

109. The Repatriation Law guaranties the right of voluntary repatriation for persons of Latvian or Liv origin, as well as for persons of other nationalities, to the country of their ethnic origin. It also guarantees the same rights to the spouse, parents or children of the person who is repatriating.

110. The Law "On Asylum Seekers and Refugees" stipulates that a request for refugee status is applicable to family members if they so agree. Persons who have been granted refugee status have the right to receive family members (spouses and children) from abroad. These persons are granted refugee status as well.

111. The spouse of a Latvian citizen has the right to acquire citizenship through an accelerated procedure of naturalisation.

Recovery of maintenance for the child

112. The Civil Law states that it is the responsibility of the parents to care for their children within their abilities and financial capacities until the child has reached the age of majority. This responsibility rests with both parents equally. If the parents live separately, the parent with whom the child is living has custody of the child. Both parents must provide for the child's well-being in accordance with their means.

113. Criminal action can be taken against a parent who does not pay maintenance or alimony assigned to him/her by the court. When a decision is taken by the court for a parent to pay maintenance and the parent does not do so, it is the executor of the court who has to enforce the decision. It should be noted that the registration (*propiska*) system under the former Soviet Union was used to assist in locating a parent who was not paying alimony. Since Latvia has regained its independence, there have been attempts to modernise this system and register people on the basis of their tax forms, but this practice is not fully functioning yet and often creates problems in locating the whereabouts of a person.

114. Due to financial difficulties, some parents are forced to place their children temporarily under the care of the State. These low-income families are entitled to financial assistance from the local governments (e.g. monthly payments to the family to cover living expenses, financial assistance for the rent of the apartment). It should be noted that the minimum level of assistance is established by the State and is the responsibility of the local government to render such assistance and, considering the financial resources available for the particular local government, to decide on additional assistance.

Children deprived of family environment

115. The Civil Law states that if a child is deprived of his/her family or is not under the custody and care of his/her parents, other means must be found to guarantee the well-being of the child. This can happen by placing the child in a foster family, appointing a guardian, placing the child in a children's shelter, family orphanage (smaller in size and trying to maintain a family rather than institutional environment) or organising adoption.

116. In 1994 government regulations on social guarantees for orphans and children state that the following categories of children are considered to be without parental care:

- A child left in hospital after being born and given up for adoption;
- Children who have been abandoned or left in maternity wards, children hospitals, orphanages or children's shelters and whose parents have shown no interest in the whereabouts of their child;
- A child whose biological parents have had their custody taken away from them by the decision of the court;
- A child whose parents are incapable of caring for their well-being due to their ill health or because they are in prison;
- When one parent is not capable of caring for the child, but the other has not cared for the child for six months.

117. To guarantee and assist the implementation of the aforementioned legislation, the Ministry of Welfare issued a decree in 1995 that places with the hospitals the responsibility to inform the authorities of children receiving medical care whose parents have not retrieved them 10 days following the end of treatment. Following such action, the child (until the age of three) is taken out of the hospital and placed in a children's home or children's shelter. The Department of Health Services

and the Division of Orphans and Children left without parental care are the implementing government structures.

118. According to the Civil Law, if a child cannot be under the custody of his/her parents, it is in the interests of the child that he/she be granted a guardian that is a relative. This can help to maintain language, cultural and religious traditions and beliefs.

119. Since 1994 by Government decree guardians receive remuneration equal to a monthly minimum salary as well as financial support to cover the living expenses of a child. The guardian is responsible for the upbringing and well-being of the child and has the same rights and responsibilities as a parent. If a guardian abuses his/her power over the child, he/she can be prosecuted under the Criminal Code.

120. On 10 June 1997 the government adopted regulations "On Foster Families" which define the status of a foster family, establish mutual rights and obligations of the child and his/her foster parents and provide for financial support from the State for every foster family. It is the responsibility of the local governments to ensure the implementation of the provisions of the above-mentioned regulations.

121. The Government realises that support must be provided to develop foster care and family orphanages. This would help to preserve a family environment for a child without parental care and to ensure development of a child taking into account his/her best interests.

122. Children from low-income families or those whose family life is not suitable for their upbringing can be placed in boarding schools. These schools provide accommodation for children to live at the school during the week and return home during the weekends. If it is in the interests of the child not to go home, he/she can spend weekends in the boarding school as well. Moreover, boarding schools can provide an alternative to families living in the rural areas that do not have access to public transportation and thus help to overcome difficulties for children to attend school on a regular basis.

123. The need for children's centres and foster care for children who must be taken out of their homes temporarily is increasing. Local governments are trying to meet these needs by establishing small children's centres that can also be used as shelters for children who run away from home or who are experiencing problems within their families. It is the responsibility of each local government to establish a centre, if necessary.

124. At present, six child care centres for orphans and three centres for physically and mentally disabled orphans are State financed. Under the Law "On Local Governments", the remaining 29 children's homes or child care centres are financed by the local governments.

Adoption

125. The Civil Law states that the adoption of a minor is permitted if it is in the best interest of the child and if there are grounds to believe that as a result of the adoption, a parent-child relationship will develop. All persons, including the child, participating in the adoption must give their consent for the adoption to take place and the decision is administered by the children's court and approved by the court. Siblings cannot be separated because of adoption unless it is in the interests of the children (e.g. if one is in need of serious medical care).

126. The adopted child becomes a member of the adoptive family and the parents gain custody of the child. In turn the child takes on the surname of his/her adopted family if not stipulated otherwise in the adoption agreement and has the same rights as a biological child.

127. The court can revoke a decision granting adoption if the procedures stated in law have not been followed or if the participants in the adoption reach such a conclusion, or if it is in the best interests of the child. However, the court may disregard the violation of prescribed procedures and decide that it is in the best interests of the child to remain in the adoptive family.

128. Government regulations on the implementation of adoption procedures apply to the adoption of children within the territory of Latvia as well as to other countries. The regulations state that the children's court takes a decision on whether the proposed adopters satisfy a number of requirements. These include the applicants' physical and mental health, financial situation and motive for adoption. The decision of the children's court must be approved by the court.

129. Adoption of a child by a persons living in a foreign country is allowed only in cases when the upbringing of a child with respect to best his/her interests is not possible in Latvia. A decision to allow a child to be sent for adoption to a foreign country must be ratified by the Minister of Justice.

130. It is common for children in families where only one spouse the biological parent to be adopted by the other spouse.

Illicit transfer and non-return

131. According to the existing legislation, every child has to have a passport in order to be able to leave the territory of Latvia. Any person other than the parents of the child has to produce a written authorisation from the parents to accompany the child abroad. Authorisation also is required if the parents have divorced and one of them accompanies the child abroad.

132. Article 126 of the Criminal Code states that a child's abduction with the purpose of making a profit, as a form of revenge, or other inhumane reasons entails criminal responsibility. It is understood that this article applies to a child's abduction within the territory of Latvia as well as to the illicit transfer abroad. Since 1992 there have been 12 cases brought before the court under article 126 of the Criminal Code. However, none of them deals with illicit transfer abroad.

133. Latvia has ratified the European Convention on Mutual Assistance in Criminal Matters and has concluded bilateral agreements on mutual legal assistance with Belarus, Estonia, Lithuania, Krygystan, Moldova, Poland, Russia, Ukraine, United States of America and Uzbekistan. Moreover, Latvian police cooperate with police forces of other countries, particularly within Interpol, of which it is a member.

Abuse and neglect, including physical and psychological recovery and social reintegration

134. The Constitutional Law states that torture and other cruel, inhuman or degrading treatment and punishment are prohibited. Article 111.[1] of the Criminal Code provides that if, in exercising custody of a child, a parent is found guilty of abuse or neglect or otherwise faults on care of the child in a way which entails a lasting danger to the child's health and development the court can deprive a parent of the custody rights, deprive the parent of freedom or levy a monetary fine on the parent. The Criminal code also establishes the principle that any crime (other than provided for in article 111.[1]) the victim of which has been a child is to be considered as a crime with aggravating circumstances entailing a more severe penalty.

135. Parents or guardians who do not fulfil their parental obligations, including ensuring that their child attends school, can be fined in accordance with the Code of Administrative Offences. If a parent/guardian is responsible for the alcoholic inebriation of their child, they can also be held accountable under the aforementioned Code.

136. In 1994 the Prosecutors Office conducted an investigation on child abuse as specified in article 111.[1] of the Criminal Code and found that in 1993 there were seven criminal cases brought before the court against family members. In 1994 the Prosecutors' Office received 74 requests from medical institutions, school boards, school directors, local governments, relatives and neighbours to investigate possible cases of child abuse; 56 of these cases have been deemed to be criminal offences and punishable under the Criminal Code, of which 9 were before the courts, 8 forwarded to the courts, 7 were terminated and 32 were still under investigation. Analysing these criminal cases, fathers are accused of wrongful action against children most frequently. Practice has shown that the investigation of such cases is lengthy and often complicated and harms the situation even more, because the child continues to live together with the person under investigation. Later statistical information does not differentiate data according to the stage of the case and shows only the number of crimes registered and number of cases initiated.

137. According to the information of the Ministry of Interior, during the first nine months of this year, 315 crimes have been registered where victims were children (in 1995 - 312, in 1996 - 257, in 1997 - 434), and the majority of these crimes fall under article 111.[1] of the Criminal Code.

138. A joint decision by the Ministries of Welfare, Education and Interior "On the Prevention of the Violation of Children's Rights" was adopted in 1992. The decision places responsibility with medical personnel, school pedagogues and police officers to inform a children's rights protection inspector within 24 hours of a violation of children rights that they have observed or have been made aware of and do what is in within their power to stop the violation from continuing.

139. There are children leaving home due to the lack of supervision, conflicts, physical abuse, or alcohol or other substance abuse by parents. These children can be placed in children's shelters, the purpose of which is to provide temporary accommodation for children, to render necessary medical assistance, to assist in placing the child back in his/her home or finding the most suitable solution for the well-being of the child, including separation from the family.

140. Certain reforms have taken place within the education system relating to the rehabilitation and reintegration of children who have suffered physical or psychological traumas. Psychologists are working in schools to provide assistance to children, parents and pedagogues. Under the auspices of the University of Latvia, a Psychological Crisis and Assistance Centre has been established that provides qualified and competent assistance at a nominal fee. The demand for its work is greater than its ability to satisfy needs.

141. NGOs have played an important role in this area by providing information to the general public on children's rights and abuses, as well as crisis hot-lines for abused children or those in need of advice.

VII. BASIC HEALTH AND WELFARE

Survival and development

142. The Constitutional Law "The Rights and Obligations of a Citizen and a Person" establishes constitutional protection for the survival and development of every child and states that the right to life of every person is the foundation and greatest value of the country and the Law places the responsibility on the State to ensure the survival and development of a child.

143. As regards the much more difficult question concerning abortion, the 1997 Medication Law states that every doctor is responsible for the preservation of the unborn child. The doctor has to attempt to persuade the woman to preserve the child if the pregnancy is not harmful to the health of

the expectant mother and there are no grounds to believe that a child would have serious illnesses. The doctor has the right to refuse to perform an abortion if there are no medical reasons for it.

Disabled children

General

144. The Law "On the Protection of the Rights of the Child" states that disabled children have the same rights to active life, development and general and professional education according to their abilities as any other child. This Law also acknowledges that disabled children require additional care and assistance both within the family and by the State.

145. On 4 May 1990 Latvia accepted UN Declaration on the Rights of disabled Persons. The 1992 Law "On Medical and Social Protection of Disabled" which is based on the principles of the said Declaration and states that:

- The main aim of social aid is to ensure the integration of disabled people in the society;
- The right to medical and social help is equal for all disabled persons;
- Social help for disabled persons is individual and should be rendered in a timely manner.

146. The aforementioned Law determines the rights of all disabled persons, including those of a disabled child. Under this Law disabled children under 16 receive an allowance of 25 lats per month. The same Law provides that children and their caretakers can use public transport free of charge, and also receive medicine free of charge.

147. Under the Law "On Social Security" disabled persons are entitled to assistance for activities which promote their social integration, including assistance in employment issues. Government integration efforts in practice had led to the elaboration of a 10-year programme aimed at ensuring that all public premises are made accessible for disabled persons. The Law "On Local Governments" establishes the competence of local governments to ensure social aid for disabled persons.

148. The information of the Ministry of Welfare indicates an increase in the numbers of disabled children:

in 1994	5,445 disabled children
in 1995	5,923 disabled children
in 1996	6,637 disabled children
in 1997	7,690 disabled children
in 1998 (in the first 8 months)	8,007 disabled children

Rehabilitation services

149. There are several legislative acts establishing the legal bases for rehabilitation of disabled:

- The Law of 7 September 1995 on Social Security;
- The Law of 14 November 1995 On Social Aid;
- The Law of 29 September 1992 On Medical and Social Protection of Disabled.

150. The State allocated 2 million lats in 1997 from its budget for the budget subprogramme "Rehabilitation" which includes the following spending lines:

- Rehabilitation for employment purposes;
- Day centres for mentally disabled persons;
- Rehabilitative measures for hearing-and vision-impaired persons;
- Provision of a free-of-charge stay in health resorts;
- Acquisition, rent and distribution of special equipment;
- Production of special equipment.

151. The rehabilitation assistance is rendered to the concerned persons through the local governments, taking into account the person's needs assessment by the social aid services of the local government.

152. Treatment and recovery treatment for disabled persons, including children, is available at the rehabilitation centre "Vaivari" and is financed from the State and local government budgets. Recovery treatment is provided also in the child social rehabilitation and care centre "Bulduri". In addition to the State-financed rehabilitation services several NGOs provide assistance to disabled persons, including summer camps for disabled children, and provide financial support for medical treatment.

Education possibilities or disabled children

153. There are special schools (boarding schools), sanatorium-type boarding schools, development and rehabilitation centres, and specialised classes at elementary schools where disabled children can obtain an education. the education in these institutions is free of charge. Moreover, the State covers tuition fees if a disabled child is taught at home. The objective of specialised education is to ensure that children with mental or physical handicaps, with psychoneurological or serious somatic illnesses obtain an education in the best possible way according to their abilities.

154. In 1990 children with serious psychological disabilities began to attend specialised schools. Prior to this time, it was considered that such children were unable to learn. Currently there are 54 specialised schools in Latvia and 7,820 children with visual or hearing impairments, psychological or physical disabilities, psychoneurological illnesses and other health problems attending these schools. there are 31 primary schools providing specialised classes for children with disabilities and there are 16 specialised schools for children from all over the country. A great deal of attention has been devoted to preparing teachers to be able to assist in integrating children with physical or psychological development disorders into regular classes. Pedagogues from special schools consult and provide practical advice to teachers and parents.

155. The curriculum for grade 9 in specialised schools focuses on providing the child an education based on a vocation so that the child is able to learn a vocation suited to his/her needs. If the school has the necessary resources grades 10 and 11 are developed to provide the child with an even better foundation. Vocational education is also made available for disabled children in several specialised institutions, such as the vocational education and rehabilitation centre in Alsviki and the National Rehabilitation Centre.

156. The implementation of alternative pedagogical models in specialised education is being promoted. Great attention is being paid to preparing teachers in integrated classes and in classes for children with serious development handicaps or mental retardation. The foreign experience is evaluated in order to improve the special education system in Latvia.

NGO support

157. The Government's social policy within its limited financial means may not be sufficient given the needs of the population in that respect. There is an ongoing dialogue among the Government, non-governmental organisations and various concerned groups aiming at joining efforts to improve the situation.

158. Various non-governmental organisations support disabled children. In implementing the programme "The Health", the Children's Fund of Latvia has sought international cooperation partners with the help of whom equipment for children suffering from children's cerebral paralysis (poliomyelitis) has been provided for early rehabilitation at the "Vaivari" rehabilitation centre. In 1995, a project was elaborated to transform the hospital "Baltezers" into a rehabilitation centre for disabled children. Work is ongoing on the implementation of an early rehabilitation project for hearing-impaired children. There are continuos efforts by NGOs to gather the necessary medical and other equipment, specialised literature and developmental toys to carry out the educational activities for parents. The Children's Fund of Latvia has financially supported the publication of the magazine "The Anxiety Child". The Children's Fund, together with the Red Cross and local governments, organise recreational camps for children suffering from chronic and serious diseases. From 1992 till 1996, 1,275 children attended 52 camps.

Health and health services

General

159. Constitutional protection of the health of the children of Latvia is set forth in the Law "The Rights and Obligations of a Citizen and a Person" which stipulates that everyone has the right to medical care. The main obligation to ensure the protection of the health of a child lies with the parents or guardians. Furthermore, it is provided that the State protects the health of the public and guarantees each person a minimum level of medical assistance determined by law.

160. There is no particular law on the protection of the health of the child. However, the body of law dealing with the issue, and in particular the law "On the Protection of the Rights of the Child", the 1997 Medication Law and 1997 regulations on the financing of health care encompass a large number of relevant provisions relating to the issues covered by the Convention. Furthermore, all issues related to children's health and hygiene are regulated by an extensive number of quality standard acts.

161. Health reform in Latvia is aimed at the establishment of a financially balanced health care system. It should be noted that the centralised health care system inherited from the Soviet Union was completely State-financed and, therefore, health care services were not considered as having monetary value. Moreover, the resources for health care were allocated notwithstanding the quality or the quantity of the services rendered.

162. The current health care system is partially centralised: the financial resources are allocated to the local governments according to the number of residents in their territory. It is the responsibility of the local governments to ensure the establishment and maintenance of the necessary health care facilities. The health care policy focuses on preventive and primary health care and a universal and effective system of health insurance. The implementation of this policy has led to an increase in the number of primary health care institutions from 393 in 1991 to 617 in 1997.

163. The resources allocated by the State for health care have increased since 1992 and in 1997 constituted 18.3% of GDP (in 1992 - 12.5% of GDP).

164. In order to promote international cooperation on medical issues, Latvia has commenced the elaboration of respective international agreements. On 1 May 1998 the Agreement between the government of the Republic of Latvia and the government of the Kingdom of Sweden on Medical Care for Temporary visitors entered into force. Conclusion of similar agreements is envisaged with Estonia, Lithuania and Finland.

Measures to diminish infant and child mortality

165. The child population in Latvia constitutes 23.5%, in absolute figures it is 577,239 persons under 18 years of age as of beginning of 1998. The infant mortality rate (under 12 months) was 1.52% in 1997. This figure testifies to a trend towards improvement of the situation, as the same figure for the previous year was 1.85%.

Infant mortality (number of deaths under 1 year)

Year	*Total*
1980	545
1985	518
1986	538
1987	476
1988	456
1989	438
1990	531
1991	545
1992	557
1993	434
1994	381
1995	407
1996	315
1997	289

166. The immunisation of children is an integral part of the State policy in the health sector aimed at diminishing the child mortality. The public Health Department within the Ministry of Welfare has elaborated the national vaccination policy against infectious diseases, such as diphtheria, measles, epidemic parotitis and poliomyelitis. The implementation is delayed because the necessary financial means are not fully available. In order to implement the programme successfully, at least 90% of all children must be vaccinated. The actual budgetary situation allows for the vaccination of only 83% of children.

Practices prejudicial to the health of children

167. As regards the rites mentioned in article 24, paragraph 3, of the Convention which may harm the health of children, the Latvian health authorities are not aware of any cases of circumcision of women performed by Latvian doctors. Circumcision of boys is not considered to be harmful to their health and may in certain cases be medically indicated. Circumcision of boys probably takes place in Latvia for religious and cultural reasons. The Latvian authorities are not aware of the performance in Latvia of any other traditional rites which may be harmful to children.

168. A girl who belonged to the Jehovah Witnesses died in the hospital due to the refusal of her parents to accept the proposed blood transfusion. This accident caused wide discussion but no legal action was initiated due to the absence of *corpus delicti*.

169. The 1997 Medication Law states that it is necessary to receive the permission of a patient for his/her medical treatment and for the methods of the treatment. However, the Law also states that in cases where the consent of a patient, his/her family members or legal guardians cannot be obtained and any delay is dangerous for the health of the patient the doctor has an obligation to carry out the necessary immediate treatment. The doctor also has an obligation to inform the children's court of following the medical treatment of a child.

Health care for mothers

170. Article 173 of the Labour Code determines that maternity leave is to begin 56 days before the birth and 56 days after the birth. The Law states that maternity allowance shall fully correspond to the recipient's average salary. According to the Law "On social Aid", for the birth of every child a child-birth benefit is given to one of the parents or to the person who has adopted a child or taken custody of a child.

171. All expectant mothers receive medical consultations during pregnancy free of charge. The State-provided birthing services are free of charge, through it is possible to receive birth services in private health institutions accredited by the Ministry of Welfare.

Health education

172. At present about 60% of schools in Latvia have health education classes.

173. The Family Centre of Latvia carries out counselling activities to children on different health matters. Within the family Centre of Latvia, the Youth health Centre has been established. Over a period of 1½ years various lectures and seminars have been organised by the Youth Health Centre. The estimated attendance exceeds 13,000 children. Individual consultations and discussions took place after lectures.

174. A minor has a right of proper self-determination as regards guidance on contraceptive methods. Such guidance can be offered and received by children and young persons under the age of 18 years without the consent of the person having custody.

175. The Latvian National Commission for UNICEF has contributed to popular education by issuing a brochure, "Ten Steps in Successful Breastfeeding". It is widely available through medical and care institutions free of charge. NGOs are also actively participating in popular education, in particular the organisation "Save the Children" which disseminates health information, for example about the benefits of breastfeeding.

176. In 1995 the Health Promotion Centre commenced its work to organise and coordinate the implementation of the policies aimed at the promotion of individual and public health. The goal of the work of the Centre is to increase public awareness of questions relating to health and health care. The current activities of the Centre focus and on the elaboration of a strategy for the promotion of individual and public health, and on measures to decrease the level of consumption of alcohol, cigarettes, narcotics and toxic substances.

AIDS and HIV

177. Four cases of HIV have been registered in Latvia as of the beginning of 1998. With regulation No. 207 of the Cabinet of Ministers, "The Regulations of the National AIDS Centre", a National AIDS Centre under the auspices of Ministry of Welfare has been created. The Centre carries out epidemiological supervision and elaborates preventive measures. The main activities of the Centre are in line with the WHO global AIDS programme and UNAIDS programme recommendations.

Social security and child care services and facilities

General

178. The social security system in Latvia has been considerably transformed in line with the whole society's transition to a new democratic model of functioning based on a market economy. The Government wishes to emphasise that the situation as regards social security is closely interrelated with that of economic development. There are significant indications of a steady growth in the Latvian economy, therefore the Latvian Government sees the possibility for further improvement of the social security system as promising.

179. The social security policy of Latvia relates not only to measures of social insurance and social aid, but provides for wide range of measures to be taken in order to diminish social risk. The notion "social security" also includes employment and individual health care issues as well as public health matters such as environmental protection.

180. Latvia has concluded international agreements on social security with Estonia, Lithuania and Ukraine. In addition, there are agreements relating to particular groups of persons, e.g. the 1994 agreement with the Russian federation on social protection of retired military personnel of the Russian Federation and their family members residing on the territory of Latvia and the 995 agreement with Ukraine on employment and social protection of permanent residents of Latvia and Ukraine in the territory of the other Contracting Party.

Social aid and social insurance

181. The legal basis for social aid is the 1995 Law "On Social Aid" which defines the aim of social aid as the social protection of persons from society's vulnerable groups. The said Law lists the forms of social aid, divides the competence between the State and the local governments, as well as states the persons entitled to he social aid.

182. The budget for social aid in 1997 constituted 2.1% of GDP which is a considerable increase if compared with previous years (1992 - 0%, 1993 - 0.8%, 1996 - 1.9%).

183. According to the above-mentioned Law, there are three forms of social aid:

- Material assistance to a person or a family;
- Social care;
- Social rehabilitation.

184. There are 14 different forms of material assistance to a person or a family financed both by the State budget and the budget of local governments. This material assistance can be regular (financial support for the care of a child up to 3 years of age, remuneration for the person who has taken custody of a child or has adopted a child, financial support for a family with a child/children up to 15 years) or extraordinary (child-birth benefit). The State material assistance does not depend on the income of a

person or a family. The main part of the assistance rendered by the local governments is aimed at the stabilisation of the income of a person (family) and is based on the income test (e.g., monthly financial support for low-income families).

185. Article 19 of the Law determines that child-care benefit can be allotted to persons for child care until 3 years of age if this person does not receive maternity allowance from State social security and if the person is unemployed or is working part-time. Family allowance is given by the State to those persons who raise a child who is under 15 or who is over 15 but attends a comprehensive school and is not married: the latter benefit is allotted for the time when the child attends school.

186. The same Law envisages that State family allowance will be paid taking into account the number of children in the family. For a family with one child, the State family allowance is 4.25 lats. Families with several children receive an allowance for the second and the fifth child 1.2 times larger than that for the first child and for the third and fourth child an allowance 1.6 times larger. For the sixth and every subsequent child the family receives benefit in the same amounts as for the first child.

187. Institutional social care and alternative social care (at home, in day centres, in foster families) is guaranteed for old persons, disabled persons as well as for children without parental care and is financed by the State and local governments. It should be noted that alternative social care has been established rather recently. Currently there are 6 State financed child-care centres for orphans and disabled children as well as 53 child-care centres for orphans financed by the local governments.

188. In 1992 the Government passed a decision "On Recommendations for Local Governments in the Organisation of Social Services". It was the beginning of decentralisation of the social aid services. The 1994 Law "On Local Governments" further enhanced the responsibilities of local governments for social care and it is the responsibility of the local governments to determine the necessary forms of such care as well as establish and maintain the facilities needed.

189. According to the data, as of 1 January 1998 the rendering of social aid involved 881 workers the majority of whom were local government employees.

190. To enhance State participation in rendering of social aid and also in order to give methodical assistance, the Social Aid Fund has been established. One of the tasks of the Fund is to distribute State budget funds for social aid programmes for:

- Social and professional rehabilitation and care;
- Acquisition of rehabilitation and compensatory equipment;
- Obtaining vehicles for disabled persons;
- Vouchers for nutrition;
- Covering the accommodation expenses at State social care institutions;
- Determining Disability and vocational/aptitude.

191. The system of social insurance is based on the Law "On the State Social Insurance". Its aim is to compensate for a decrease in income due to unemployment, accidents at work, the death of the breadwinner, maternity leave, absence at work due to illness and other reasons. The expenses for the social insurance constituted 12.2% of GDP in 1997 (in 1992 - 9.6%, in 1995 - 11.3%).

VIII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

Education, including training and guidance

General

192. The Constitutional Law "The Rights and Obligations of a Citizen and a Person" states that everyone has the right to education. The State provides compulsory education free of charge, and provides the opportunity for everyone to continue education in accordance with one's abilities. At the same time, it is the responsibility of the parents to guarantee that a child receives an education that is appropriate for the child's abilities. If a parent does not fulfil his/her obligation in this regard, an administrative fine can be placed on the parent.

193. The Ministry of Education and Science is the responsible institution for education policy in Latvia. There is a special law concerning education - the 1991 Education Law. Some of the principles in this Law have become outdated and are in contradiction to the more recently adopted Law "On Local Governments". The Ministry of Education and Science has drafted a progressive programme on education for the future and ensures the leadership in drafting the new law. The Ministry also updates some provisions that were in contradiction with the Law "On Local Governments".

194. The Ministry has developed a Youth Plan of Action which stresses that State support for youth activities is essential, particularly during the period of socio-economic transition. The Plan of Action aims to develop policies to promote the rights of children and youth, to effectively apply resources in order to develop everyone's personal traits and needs and participation in society, to hinder social alienation and to promote conditions for the improvement of stability within the family.

195. Financial resources for educational institutions in Latvia are provided by the State and local government budgets, with the assistance of private individuals and companies and foreign aid.

Educational system

196. The Educational Law provides for rights and obligations of the State and a person in the field of education as well as states that all residents of Latvia have equal right to education and any discrimination on the basis of race, nationality, general, political or religious affiliation is prohibited. The Law establishes the following system of education:

- Pre-school education;
- Primary education;
- General secondary education or professional and vocational education;
- Higher education (universities).

197. Primary education includes grades from 1 to 8 or until a child has reached the age of 15, and it is compulsory. Secondary education in Latvia is not compulsory, but children are also provided with the possibility to gain a vocational education following primary school. The Law "On Institutions for higher Education" states that every citizen or permanent resident of Latvia has the right to study in an institution of higher education. Scholarships provided by the State can be requested and granted for only one degree.

198. The number of accredited private schools is growing and provides parents a better opportunity to choose the most appropriate school for their child. Professional or vocational education is available through 124 State vocational schools and the education is free of charge. Persons studying at these schools have a right to receive financial support from the State. Additional assistance is provided to

orphans or children without parents/guardians. Anyone can receive information on employment opportunities from the Vocational Information Centre.

199. Persons who are over 15 years of age and have not completed their primary or secondary education may do so by attending evening school or through correspondence courses. In the school year 1997/98 there were 36 evening schools.

200. Particular attention is paid to the education of disabled children. A child is placed in a special education programme based on the decision of the Medical Pedagogical Committee of the local government. Parents have the right to choose what type of school they would like their child to attend. Specialised schools are also free of charge and are financed by the State from targeted subsidies.

201. The Law "On Local Governments" places responsibility with local governments for gathering information on the number of schoolchildren in their territory and to provide suitable conditions for receiving primary and secondary education, including proper facilities.

202. The number of children who do not attend compulsory primary school is increasing. There are children who have enrolled at school only at the age of nine or ten. According to data provided by the State Education Inspection, as at September 1997 1,311 children in the age group 7 - 15 did not attend primary school.

203. Since 1997 the Children's Rights Protection Centre of the Ministry of Education and Science carries on the campaign, "School is waiting for you". The aim of this campaign is to focus the attention of the society on the need to ensure that all children attend primary schools as well as to establish a database containing information on children of school age. The campaign also attempts to assist local governments in their work to implement government regulations on registration of children.

204. the above-mentioned government regulations instruct local governments to register all children between the ages of 6 and 16. This information is compiled and compared with the information available in the Department of Citizenship and Migration. This information is used to design a functional education network within the territory of the respective local government.

205. Latvia has signed several bilateral cooperation agreements on education, culture and science.

Leisure, recreation and cultural activities

206. the Education Law states the children have the right to attend or participate in extracurricular activities (music, art, sports, youth clubs, etc.) which are part of the whole system of education. Many children also participate in folk groups (song and dance). It is the responsibility of local governments to provide the premises (and their maintenance) for such activities and to maintain or develop public libraries. Extracurricular activities can receive State funding and be sponsored from the private sector. In 1995, 200,000 lats were allocated to support youth sports activities. About one third of all schoolchildren participate in extracurricular activities.

207. Young children have become interested in forming organisations of common interests, learning organisational skills, making friends nationally and internationally and learning foreign languages. The Latvian Youth Board is a member of the National Youth Organisation Committee of the Council of Europe. A great deal of support to youth activities has been provided by foreign embassies in Latvia, the Nordic Information Office, the German-French Youth Friendship union and the Soros Foundation which developed the Education in Transition" programme. Recreational youth camps are organised by the Girl Scouts and Boy Scouts, the Red Cross Youth, the Children's Environmental School and others.

IX. SPECIAL PROTECTION MEASURES

Children in situations of emergency

Refugee children

208. The 1951 Convention on the Status of Refugees and its 1967 Protocol were ratified by the Parliament of Latvia on 19 June 1997. On the same day the Law "On Asylum-Seekers and Refugees in the Republic of Latvia" was adopted. The said law is based on the principles of the Convention and establishes the procedure to be followed in applying for and granting refugee status and defines the rights and obligations of asylum-seekers and refugees.

209. According to the above-mentioned Law, refugee status is granted to a person following an application submitted by the person provided that the person concerned does not fall under any of the exceptions listed in the Law. Upon application, and until a decision on whether or not a person is granted refugee status, the said person is considered to be an asylum-seeker.

210. The Law states that the request for refugee status is applicable to the family members of the person, including children, if they so agree. It also states that a child has the right to submit an application if he/she is not accompanied by parents or guardians. In such cases the Appeal Council for Refugee Matters appoints an independent representative who acts on behalf of the child for his/her best interests.

211. According to the Law, the Refugee Affairs Centre decides whether or not a person is granted refugee status within a period of three months from the day of the registration of the application. In *exceptional* cases this period can be extended to six months. The written decision of the Centre is forwarded to the person concerned and, if the decision has been negative, the person is informed about his/her right to submit an appeal to the Appeal Council for Refugee matters. It is the responsibility of the Centre to ensure that the person concerned can exercise this right and be present during the examination of the case at the Appeal Council.

212. Asylum-seekers have the right to legal assistance during the examination of their applications. The State also guarantees that asylum-seekers receive the necessary medical assistance, the expenses for which are covered by the State.

213. A person who has been granted refugee status has the rights, freedoms and obligations provided for by section 3 of the Constitutional Law "The Rights and Obligations of a Citizen and a Person", which include, *inter alia*, the right to leave Latvia and return, freedom of thought, conscience and religion, freedom of association and peaceful assembly, the right to the protection of privacy, the right to work, education and health care and the right to preserve the native language, culture and traditions. These rights are ensured without any discrimination as to race, nationality, language, political or religious affiliation or social status.

214. The Law provides for State support for persons who have been granted refugee status. If a person does not have any other sources of income, the State gives financial assistance to cover living and accommodation expenses as well as the fees of the courses of Latvian language. The person is entitled to such assistance for a period of 12 months.

215. The Law "On Asylum-seekers and Refuges" does not specifically address the rights and freedoms of refugee children, but the rights and freedoms provided for by the Law apply to all persons, adults as well as children. Moreover, these rights and freedoms are further guaranteed by other legal acts such as the Constitutional Law and the law "On the Protection of the Rights of the Child".

216. According to the information from the Refugee Affairs Centre within the Ministry of Interior, since the adoption of the Law there have been 21 applications. There were 16 children among the persons who have applied for refugee status. However, all of them were members of the families of the persons submitting the applications and there were no cases of a child him/herself applying for refugee status. As of today, one person has been granted refugee status.

Children in armed conflicts, including physical and psychological recovery and social integration

217. Latvia has ratified the 1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War, the 1977 Protocols Additional to the Geneva Conventions. The Conventions and Protocols entered into force for Latvia on 24 June 1992.

218. According to the existing legislation a citizen must be at least 18 years of age to join the army and 19 to be called for military service.

219. The Government wishes to emphasise that there have not been armed conflicts within the territory of Latvia since the Second World War and there is therefore no practice on the application of the Convention with regard to the measures to be taken in order to ensure the protection of children in armed conflicts and their recovery and reintegration.

Children in conflict with the law

The administration of juvenile justice

220. The Criminal Procedure Code and the Criminal Code establish the principles and procedure to be followed during investigation and trial of criminal cases. The Criminal Code states that criminal charges may be brought only against persons who have attained 16 years of age. An exception exists if a serious crime has been committed - then criminal responsibility is possible from the age of 14.

221. Existing legislation contains guarantees for just, public review of every case by a competent, independent and impartial court formed in accordance with the law. Both the Constitutional law and the Criminal Procedure Code state that each person is presumed innocent as long as his/her guilt is not proven in court. Only the court may find a person guilty of a crime in accordance with the laws in effect at the time of the offence.

222. Every person who has been accused of committing a crime must be informed of the charges against him/her. Upon the moment of detention every person has the right to legal assistance. The Criminal Procedure Code states that the presence of the attorney is compulsory in all cases where the accused person is a child and it is the responsibility of the court and its officials to guarantee the participation of the attorney. The Code further states that if a child is the accused, neither he/she nor the parents or legal guardians have the right to refuse the assistance of the attorney.

223. Under the legislation in force, every person has the right not to testify against him/herself and his/her family members. The child gives evidences in the presence of the attorney and, if necessary, in the presence of pedagogue or psychologist. It is the responsibility of the court officials to decide on the presence of the parents or guardians of the child taking into account the circumstances of the case. The Criminal Code envisages criminal responsibility for compelling someone to give evidences.

Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings

224. Any restriction of a person's freedom is permissible only in accordance with the procedure set by law. Within 72 hours from a person's detention the judge must issue a court order to sanction the

person's detention and further deprivation of liberty until the trial (arrest) or order the immediate release of the person. Each person is guaranteed the right to an attorney upon the moment of his/her detention.

225. The permissible period of pre-trial detention of a minor is two months. In exceptional cases and only if a child is accused of a serious crime, the judge may extend this period up to six months. Further prolongation of the detention is prohibited.

226. Children sentenced to imprisonment are kept separately from adults; women and men are kept separately as well. Children serve their sentences in correction facilities for minors notwithstanding the severity of the sentence. According to the existing legislation, children in imprisonment have the right to 12 meetings a year with their parents/guardians and relatives and the right to receive 12 parcels a year. Imprisoned children receive clothing and food free of charge. Children also have the right to leave the premises of the facility for up to 10 days a year with the permission of the administration of the facility. It is permitted to leave the facility for up to 5 days upon the death or serious illness of a close relative. The period of time spent outside the facility is not added to the period of the deprivation of liberty but counts as a part of it.

227. Children have the opportunity to continue general and vocational education while they are deprived of liberty. There are no restriction on purchase of books, stationery and newspapers. The employment of imprisoned children is subject to the general principles of child employment as provided for by the Labour Code.

228. Upon the attainment of 18 years of age a child is transferred to the facilities for adults. However, the Administrative Commission of the correction facility may decide that it is in the interests of the child (e.g., it is necessary to complete education) to remain in the correction facility for minors but not for longer than until the attainment of 21 years of age.

229. A child who has committed a crime and for this reason must be isolated from society but who has not attained the age of criminal responsibility, in accordance with the Law "On Educational Enforcement Measures for Children" and upon the decision of the court may be placed in the juvenile educational facility provided that the child is at least 11 years of age. It is the responsibility of the local school board to make all necessary arrangements for placement of a child in the educational facility, and all expenses are covered by the parents or guardians of the child. However, if the child is from a low-income family, the expenses are covered by the local government.

<u>The sentencing of juveniles, in particular the prohibition of capital punishment and life imprisonment</u>

230. The Constitutional Law "The Rights and Obligations of a Citizen and a Person" prohibits torture or other cruel, inhuman or degrading treatment or punishment. The Criminal Code envisaged criminal responsibility for inflicting bodily harm and this crime is considered as committed in aggravating circumstances if a victim was a child.

231. Under the Criminal Code, it is prohibited to impose capital punishment for crimes committed by persons below the age of 18. The Code further states that the deprivation of liberty as a punishment for crimes committed by children must not exceed 10 years.

232. According to the information of the Ministry of Interior, in 1997 there were 3,634 crimes where children were the suspects (in 1996 - 3,025 and 2,025 in the first half of 1998), which is 20% of all crimes registered in Latvia; 66.8% of the crimes committed by children were serious crimes (murder, robbery). In 1997 1,678 children were found guilty of committing a crime (in 1996 1,238 children were convicted).

Children in situations of exploitation, including physical and psychological recovery and social integration

Economic exploitation, including child labour

233. Under the Labour Code, children under the age of 15 cannot be employed in a full-time position. A child having attained 13 years of age may be employed during his/her free time at an easy job not harmful to his/her health. In such cases the consent of the parents or guardians and a medical examination are necessary.

234. For all children the Labour Code guarantees a shortened working week: for children 16 - 18 the working week must not exceed 35 hours; for children up to 16 it is 24 hours. Moreover, persons under the age of 18 cannot be employed during night hours and public holidays.

235. The Law "On Labour Protection", which is applicable also to children, determines that children cannot be employed in hard jobs with conditions harmful and dangerous for the health or development of a young person. To implement the above-mentioned Law as well as the relevant provisions of the Labour Code, the Government has adopted several regulations which list the jobs where children cannot be employed and established restrictions on manual labour. Employed children are entitled to payment not lower that the established minimum and to one month of paid annual holidays.

236. The Criminal Code foresees criminal responsibility for violation of the provisions of the Labour Code and the laws concerning safety of employment. As stated before in this report, any crime the victim of which was a child, is considered as committed in aggravating circumstances.

237. The Government wishes to emphasise that exploitation of child labour is not a characteristic feature of the Latvian society. The issue that is becoming increasingly important concerns child beggars and research implies that about 15% of those children were forced by their parents. These children can be placed in children's shelters and it is the responsibility of the local government to decide on the measures to assist the child and his/her family (e.g., if the child is from a low-income family, the local government provides social assistance to the family in the form of financial support).

Drug abuse

238. Under the Criminal Code persons are criminally responsible for organising drug-use places and the holding of narcotic drugs, envisaging more strict responsibility for encouraging minors to use narcotic drugs.

239. In 1996 the Cabinet of Ministers established the Commission for Coordination of Narcotics Control and Drug Abuse Abatement. This Commission is answerable to the Cabinet of Ministers and its task is to coordinate the activities of all relevant institutions, including ministries, local governments and NGOs, in the control over legal and illicit circulation of narcotic and psychotropic substances, precursors, as well as in drug abuse prevention and abatement.

240. The Youth movement "For Life Free from Alcohol and Narcotics", the organisations "Parents Against Narcotics", "Day-Top" and other NGOs promote a healthy life-style and inform children about intoxicating substances and their harmful effects as well as promote recovery and social reintegration of drug-dependent persons.

241. For more than three years a children's commune, "Saulriti", exists as a rehabilitation facility within the Straupe narcological hospital. The commune has a school where comprehensive subjects are taught.

Sexual exploitation and sexual abuse

242. Under the Criminal Code, it is prohibited to have sexual intercourse and other sexual relations with a child under the age of 16. Article 121 of the Criminal Code envisages criminal responsibility for rape, article 121^1 for satisfaction of sexual needs in perverse forms, article 124 for forced homosexual intercourse. If the victim of these crimes was a child, the Criminal Code foresees more severe sentences. Article 123 provides sanctions for inducement and coercion to engage in unlawful sexual activities of a person under the age of 16. Article 209 foresees criminal responsibility for exploitative use of children in pornographic materials.

243. In order to ensure the implementation of the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, in 1997 the Criminal Code was amended and articles 209^2 and 209^3 establishing criminal responsibility for inducement of children in prostitution and exploitative use of children in prostitution were added. There were 3 cases falling under these articles before the court in 1997.

244. According to the information of the Ministry of Interior, in the first eight months of 1998 there were 34 cases of rape reported to the police where the victims were children (51 cases in 1997 and 48 cases in 1996), usually girls 14 - 15 years of age. The second biggest group of crimes is satisfaction of sexual needs in perverse forms - 35 cases in the first eight months of 1998 (69 cases in 1997 and 48 cases in 1996). There were 34 reported crimes falling under articles 123 and 124 of the Criminal Code (35 cases in 1997 and 20 cases in 1996) and 24 cases of reported sexual intercourse with persons under the age of 16 (8 in 1997 and 16 in 1996).

Children belonging to a minority or an indigenous group

245. The Constitutional Law "The rights and Obligations of a Citizen and a Person" establishes the guarantees for the protection of the basic rights of all permanent residents of Latvia. The Law emphasises that it is the responsibility of every person to respect the customs and traditions of national and ethnic groups living in Latvia, as well as to respect the national pride of other persons. The Constitutional Law also ensures the right of everybody to choose freely his/her religious faith and to practise it.

246. The Law "On the Unrestricted Development and Right to Cultural Autonomy of Latvia's National and Ethnic Groups" establishes the principle of equal treatment and non-discrimination of all residents of Latvia. It guarantees individual choice of national affiliation, the right to establish national organisations and State support for such organisations, the right to have contact with kin States, State support for the development of the education, language and culture of the national and ethnic groups. Several agreements have been concluded between Latvia and kin States of some ethnic minorities. The most effective cooperation of this kind is with Poland, Lithuania and Estonia.

247. The Ministry of Education and Science developed a conceptual framework for ethnic minorities' education in 1995. This concept, which was developed in accordance with the Education Law, provides the possibility to establish national minority schools with the native language or Latvian as the language of instruction. It also ensures State and local government support for minority schools. The goal of minority education is to provide assistance for persons to integrate into the political, economic and cultural life of Latvia, while retaining their ethnic awareness, language and culture. The educational levels of minority schools correspond to the levels of education set by the Education Law (primary and secondary general education).

248. The parents of children belonging to minorities have the right to choose an educational establishment with any language of instruction, if the language skills of the child are sufficient. Latvia has ensured the possibility to obtain State-financed primary and secondary education in

8 minority languages. There are 199 Russian, 6 Polish, 1 Jewish, 1 Lithuanian, 1 Estonian and 1 Ukrainian school, as well as classes for Belorussians and Roma (Gypsies).

249. Currently the language of instruction in minority schools usually is Latvian or Russian (except for subjects of ethnic culture). State standards of education in separate subjects are the same for schools with Latvian as language of instruction and for minority schools. In subjects of ethnic culture (usually these are history, geography, native language and literature) the educational standards are not confirmed by the Ministry of Education and Science, but are elaborated in cooperation with the minority kin State in order to promote awareness of its culture and traditions. Every year the Ministry of Education and Science prepares a model plan for the primary and secondary school curricula, which establishes the proportion of classes to be held in the native language, depending on the level of education.

250. Minority schools use the textbooks published in Latvia and, for the subjects of ethnic culture, textbooks published in their kin States. At the request of minority schools several textbooks, study materials and workbooks have been translated from Latvian.

251. Besides primary and secondary schools there are "Sunday schools" which are organised by the minority culture societies; at present there are more than 20 ethnic cultural societies. In those schools during holidays children and their parents have the opportunity to improve their knowledge of the native language, as well as to take part in hobby groups and in activities related to their kin States.

252. The government of Latvia, in cooperation with UNDP, has developed the National Programme for Latvian Language Training. The Programme, which has been in operation since December 1996, is designed to promote Latvian language teaching among non-Latvians as well as to promote equal study and employment opportunities. The project envisages a gradual increase in the number of subjects taught in Latvian in minority schools. The Programme envisages teaching Latvian to 180,000 schoolchildren over a period of 10 years.

253. There were 751 pre-school educational institutions in 1997. To ensure the education of pre-school-age children in their native language, the following institutions were established: 483 pre-school institutions with Latvian as the language of instruction; 136 with Russian as the language of instruction; 130 bilingual (Latvian - Russian) pre-schools; 2 with Polish as language of instruction, 4 groups with Lithuanian-language instruction; 2 groups for Jewish children. The Latvian language is also taught in the pre-school educational institutions with languages of instructions other than Latvian.

254. Vocational education in Latvia can be obtained in Latvian and Russian. Out of the total number of students, 65% study in Latvian and 35% in Russian.

255. Higher education can be obtained in the State language - Latvian. out of the total number of university students, 86.3% study in Latvian, 12.6% study in Russian, 0.9% in English and 0.04% in German. In the private higher educational institutions, out of the total number 66.1% have Russian as the language of instruction.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Periodic reports due in 1994

CAPE VERDE

[30 November 1999]

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General considerations

1. Cape Verde is a small island country in the Atlantic Ocean off the West African coast of Senegal and Mauritania. It was a Portuguese colony until 1975. According to 1992 statistical data,[1] it has a land area of 4,033 km^2 and a population of about 389,000 inhabitants.

The country is part of the Sahelian zone and has the characteristics of that part of the African continent, with an arid and semi-arid climate and devastating droughts. It has only 426 km^2 of arable land and rain is very sparse (about 200 mm/year). Prolonged periods of drought regularly affect the country, jeopardizing its survival and further accentuating the ongoing process of desertification. The lack of permanent watercourses is one of the country's major problems.

2. The economy is based on the provision of services, which accounted for 60 per cent of GDP in the 1960s, while agriculture and fishing employed about 24 per cent of the active population, but accounted for only 13 per cent of GDP.[2] Because of the above-mentioned conditions, an archaic structure and outdated technology, however, the country cannot produce what it needs for subsistence and has to import staple commodities and ordinary consumer goods. Even during what are regarded as good farming years, production does not cover 60 per cent of the country's needs.[3]

3. About 14 per cent of the population is considered extremely poor and 30 per cent is poor, with a larger concentration of this population sector in rural areas, where 70 per cent of the poor and 85 per cent of the extremely poor live.[4] The unemployment rate is quite high and stood at 23 per cent in 1990, according to an ILO study.[5] The system of production cannot provide employment for a population which is growing by 2.7 per cent each year. Unemployment primarily affects women and young people, with disturbing levels in urban areas.[6] The majority of the population lives in substandard dwellings. The poor have large families and very little living space, without sanitation and electricity. With the rural exodus and as a result of the slums which have sprung up near towns and in which health conditions are extremely critical, the problem is growing worse.

4. On account of major economic constraints, part of the Cape Verdean population emigrates and it is estimated that nearly as twice as many Cape Verdeans live outside the country as in the islands. The adverse social consequences of this situation are enormous, but they are greatly mitigated by emigrants' remittances and by official development assistance, which keeps increasing. From 1992 to 1995, official development assistance rose from C.V. Esc 8,584 million to C.V. Esc 11,069 million and total investment amounted to C.V. Esc 10,427 million during the same period.[7]

5. The living conditions of much of the population are precarious. For example, only 14.8 per cent of Cape Verdean families have access to running water and only 20 per cent have a bathroom with a toilet. When these data are broken down by inhabited area, it may be seen that, in rural areas, where the majority of the population lives, these percentages drop to 2.9 per cent for running water and 6.1 per cent for access to a proper bathroom.[8]

6. The country's overall socio-economic problems are also reflected in the nutritional situation, as shown by the large calorie and protein deficit in 16.2 per cent of children under age five.[9] Diseases resulting from such living conditions carry considerable weight in cases of ill health. Infectious and parasitical diseases are thus the main causes of general mortality (1.7 per thousand in 1993) and infant mortality (17.5 per thousand in 1993).[10]

7. Family structure is complex and is characterized by a large number of single people and de facto unions. It should be pointed out that 40 per cent of women with more than one child have at least two different "fathers of their children"[11] and that nearly 80 per cent of children are born out of wedlock.[12] Women, who often support their families, have fewer skills and lower wages than men in identical situations.[13] This is the context in which a population with a very young component, i.e. 55 per cent of young people under age 20,[14] lives.

8. Because of various factors, however, such as adequate social welfare coverage, some health indicators are acceptable, particularly when compared with those in the region. General mortality (9.1 per cent in 1995), infant mortality (45.1 per cent in 1995) and under-five mortality (59.8 per thousand), as well as coverage for children under age one (64.2 per cent), are considered positive.[15] Educational indicators are also satisfactory, since the literacy rate stands at 80 per cent, which is quite good.[16] The coverage rate of pre-school education in 1995 was about 40 per cent of children aged between four and six. In basic education (six-year cycle), there was a gross enrolment rate of 119 per cent and a net enrolment rate of 95 per cent in the same year. With regard to secondary education in 1995, gross and net enrolment rates stood at 32.9 per cent and 29.6 per cent, respectively.[17]

9. The data relating to education reflect the cultural homogeneity of a physically and culturally mixed population, which is the result of the mixing of African peoples and peoples of various cultures, especially the Portuguese.

10. These general considerations may help provide a better picture of progress in the implementation of the principles embodied in the Convention on the Rights of the Child.

I. GENERAL MEASURES OF IMPLEMENTATION

A. General framework

11. Since national independence, the successive Governments of Cape Verde have attached great importance to children. The situation of children has been a matter of constant concern not only to the State, but also to institutions, political figures and civil society. One of Cape Verde's greatest poets, Jorge Barbosa, denounced the situation in no uncertain terms during the colonial period. Amilcar Cabral's famous saying that "Children are the flowers of our revolution" reflects the country's concern about the situation of children.

12. Political independence brought the situation of children under institutional control, even though great efforts still have to be made in this regard. On the one hand, children enable Cape Verdeans to see themselves as in a mirror and to show and renew their emotions. On the other, they reflect the great problems in responding adequately, in a very limited production

context to the demands of the large majority of young people, who are consumers by nature. This institutional control is not merely symbolic, but, in practical terms, represents a break with the colonial approach, which was to regard social problems as matters for the police.

13. Twenty-two years after national independence, the institutional model has changed a great deal and progress has been made in promoting the rights of children in various areas. New problems always arise, however, and most of the old ones crop up again with even greater intensity; the obstacles to be overcome then become enormous.

14. Although there is a great deal of space for creativity and rationalization, constraints are the result of material and human difficulties. Part of this space might be occupied by actors who are trying, through organizations of civil society, to establish the solidarity that has always been part of the Cape Verdean people's traditions.

15. As stated above, efforts have been made over the years to give institutional shape to the Cape Verdean people's way of life. In legislative and social policy terms, great strides were made and, generally speaking, they led to the implementation of the principles embodied in the Convention on the Rights of the Child. Cape Verde formally acceded to the Convention in 1991 (adoption of Act No. 29/IV/91 of 30 December) (Official Gazette No. 53, supplement No. 4). The progress made on the measures adopted thus far, in terms of the promotion and protection of the rights of the child, remains to be measured, however, and it must be determined whether this trend continued following ratification.

16. With regard to the main measures for the advancement and protection of children prior to 1991 and taking 1975 as a starting point, it may be stated that, in institutional terms, the coherent structure that has been built reflects the various stages in the country's political history. Although a number of political measures in favour of children were adopted shortly after independence, the first Constitution (Lope, 5 July 1975, Official Gazette No. 1) did not deal specifically with the problem.[18] Like many other legal questions, those relating to the child continued to be dealt with by the colonial legislation that remained in force in Cape Verde after political independence. In constitutional terms, this was a major step forward that reflected the progress made during the 15 years between the first and last versions of the Constitution.

17. The 1980 Constitution did not make much headway on the problem of children.[19] Over the years, however, a number of infra-constitutional measures filled the gaps that existed and a large number of institutions were established or recognized to back up the policies being formulated.

18. In addition to these measures, mention must be made of the Juvenile Code and all the other texts which amended the Code of Criminal Procedure, the Civil Code and the Penal Code as a means of meeting the needs of families and minors. In 1976, prior to the enactment of the Juvenile Code, legislation was adopted that eliminated any distinction between legitimate and illegitimate children (Decree-Law No. 84/76 of 25 September) and introduced machinery to facilitate the declaration of paternity and maternity through affiliation proceedings (Decree-Law No. 57/75 of 6 December). The legislation on children which was drafted prior to the adoption of the Convention is based on principles which were embodied in the Convention a few years later.

19. It should be noted that the Convention does not merely validate these principles and give them greater dignity. The principles were amended extensively; children were no longer only persons to be protected and were now regarded as persons with rights.

20. With regard to institutions, particular attention is drawn to the work of the Cape Verdean Juvenile Institute (ICM), which was set up in 1982 and deals with juvenile policy (Decree No. 90/82 of 25 September). Other important organizations of civil society began working in this field, such as Caritas Cape Verde, the Cape Verde Red Cross and the Cape Verde Solidarity Institute (ICS). These institutions have played a very important role - and some continue to do so - in the implementation of proposals relating to the protection of children in the areas of education, culture and solidarity, particularly by helping State and government health, education, justice and social welfare departments.

21. In view of the importance of child-related issues, Cape Verde was present at the World Summit for Children in 1990 and, through ICM, at the OAU International Conference on Assistance to African Children, held in Dakar from 25 to 27 November 1992. During these conferences, various important topics were discussed, including children in particularly difficult situations and child victims of armed conflict, the aims of child vaccination, access to oral dehydration, iodine and vitamin A deficiencies and breastfeeding on an exclusive basis. Important recommendations to the participating countries were drafted including those relating to the mobilization of resources at the national, regional and international levels, the formulation of plans of action up to 2000 in areas such as health, education, violence against children, drinking water supplies and the role of women, the ratification of the African Charter of the Rights and Welfare of the Child and the formulation of national children's covenants. Meetings were also held with potential donors who were prepared to finance projects and programmes.

22. Cape Verde's participation in these conferences and other meetings on children played a decisive role in energizing and strengthening the institutional structure for the protection of the rights of the child, i.e. ICM in particular.

B. Measures to harmonize legislation and policy with the provisions of the Convention

23. The ratification of the Convention took place at the beginning of the country's process of democratization, which gave fresh impetus to child protection policies. The current Constitution, which was adopted in 1992 (Constitutional Act No. 1/IV/92 of 25 September), attaches importance to child-related problems and gives them dignity, while embodying important principles that were already contained in other basic texts relating to family law.[20] The necessary institutional changes were also made and efforts focused on the implementation of programmes in important child-related sectors, such as education. The ratification of the Convention was followed by the adoption of many measures which are described below.

1. Legislation

24. The adoption of the 1992 Constitution was probably the most important legislative measure. International agreements such as the International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights and the African Charter on Human and

Peoples' Rights were approved or ratified, as were other international instruments for the protection of children. Cape Verde also acceded to the African Charter on the Rights and Welfare of the Child (National Assembly resolution No. 32/IV/93 of 19 July). In 1997, new legislation (Legislative Decree No. 12-C/97 of 30 June) amended the 1981 Family Code extensively and included various legal principles abrogated by the old Code.

25. All these changes were incorporated in the Civil Code, which now also includes all the fundamental rights of the child which were provided for in the Juvenile Code and are also contained in the Convention on the Rights of the Child. Specific, but very important changes were made even in the Civil Code, thus contributing to the strengthening of the legal status of children particularly with regard to adoption, alimony, property administration, the exercise of parental authority, guardianship, inheritance, de facto union and rules of conflict.

26. Criminal legislation (Legislative Decree No. 4/97 of 28 April) which lists certain types of conduct that violate the rights of the child and characterizes them as criminal offences was also adopted in 1997. It will be referred to in detail below.

27. Very important legislation such as the Penal Code, the new Code of Criminal Procedure and a new act on the enforcement of custodial sentences, draft texts of which are being discussed by civil society,[21] are to be adopted very soon.

2. Cape Verdean Juvenile Institute

28. The objectives of ICM, which was established in 1982, are to "promote and preserve the well-being of minors and protect them against situations which might endanger their full and harmonious development" (art. 1). Following the ratification of the Convention, ICM began playing an active role in the promotion of the rights of Cape Verdean children. In recognition of its work ICM received the UNICEF "Children and Their Rights" prize in 1996.

29. Despite the importance attached to the topic of the rights of the child, ICM does have some problems, both from the institutional point of view and from the point of view of human, material and financial resources. The greatest obstacles which urgently need to be overcome are its inadequate status, its inability to employ the officials it trains and the country's economic problems.

30. ICM's area of activity has expanded and now consists of preventive action and assistance activities.

Prevention

31. ICM was established, inter alia, to prepare field studies and reports on problems which may particularly affect children, especially child workers, street children and child prostitutes. From what is, of course, a different point of view, ICM has already carried out a study of the traditional system of foster care for orphans.[22] The activities carried out by ICM include the dissemination, in the press, of information on the Convention and legislation on the rights of the child, the promotion of discussions on the question of children and adolescents and the publication of a comic strip on the Convention for children and young people. ICM still intends

to prepare and hold the Children's Parliament with 900 children in order to promote basic aspects of the Convention. In addition to these activities, awareness-raising campaigns have been launched to promote specific issues, such as the social integration of disabled children, the right of children to recognition by their parents and action to combat violence against children.

Assistance

32. In order to carry out its assistance activities, ICM has a youth centre, four social centres and nine nursery schools and it supervises seven other schools. Through these facilities and in cooperation with other bodies, ICM provides social, educational and psychological assistance for needy children and children in particularly difficult situations; in this context, it implemented eight programmes in 1996 involving over 3,500 children of both sexes. The programme which involved the largest number of children was entitled "assistance in court", followed by the programmes on the development of children's communities (1,193) and the emergence of children (324).[23] Social welfare and social protection are two components of ICM's assistance activities which depend on coordination with other bodies and whose constraints must be analysed so that improvements may be made. ICM took part in assistance for disabled children through the Ministry of Health community rehabilitation programme and contributed to the formulation of the integrated special education programme being implemented by the Ministry of Education, Science and Culture.

3. Education

33. In the context of measures to modernize the system of education and in view of the wording of the text defining the basic principles of the national education system, as adopted in late 1990 (Act No. 103/III/90 of 29 December), changes were made in this sector, which takes account of practically all Cape Verdean children. The modernizing approach of the educational sector is coordinated with that of the protection of human rights.

34. Some elements which are worth singling out are the implementation of the "Education for family life" programme, the formulation of the "Integrated special education" programme and the institutionalization of School Games, which bring together children from teaching establishments throughout the country in the context of games and exchanges.

35. It should be noted that the reorganization of the educational system, which must cover all levels of instruction, is severely restricted. The most important restriction is financial, since it determines the use of physical space and greatly limits the distribution of teaching materials and the adaptation and pedagogical support of teachers as a result of the consequences of the problematic socio-economic situation.

4. Youth

36. As far as young people are concerned, community activities are being encouraged and the Office of the Secretary of State for Youth and Sports was established in 1990 to formulate, implement, monitor, evaluate and follow up youth policy.

5. Health

37. The health policy is designed to give priority to prevention and better health-care access. Attention is drawn to mother and child protection activities, especially vaccinations.

6. General policy

38. The holding in July 1995 of the Meeting on Social Policy for Children and Adolescents, which was attended by the country's main authorities and which adopted a major national political and social declaration, showed how much importance is attached to the question of children by political and governmental bodies and by civil society. It was, however, not possible to give effect to all the recommendations formulated by the Meeting, particularly on the establishment of a coordinating committee for the policy on children and adolescents.

C. Mechanisms to coordinate and monitor the implementation of the Convention

39. Although a great deal of work on the well-being of children has been done by various departments, it is still necessary to improve specific coordination and monitoring mechanisms with a view to the proper implementation of the Convention. The Government is aware of these shortcomings and is making every effort to find more appropriate and effective solutions. According to a press release by the Prime Minister (No. 23/94 of 13 June), the Government set up a committee to carry out studies on the new legislation relating to minors. The dissemination of the principles and provisions of the Convention has always been part of ICM's work.

II. DEFINITION OF THE CHILD

40. The Convention defines the child as any human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier (art. 1).

A. Majority

41. The Convention adopts the general approach that the child attains the age of majority at 18 years, but also recognizes that that age may be lowered if the States parties to the Convention so decide. In Cape Verde, the age of majority is set at 18 years, according to an a contrario interpretation of article 45 of the Juvenile Code,[24] as approved by Decree-Law No. 89/82 of 25 September. The same approach is taken in article 133 of the Civil Code. The legal approach is thus in keeping with the definition of the child contained in the Convention.

42. According to Cape Verdean law, children in general lack capacity to exercise rights (art. 5 of the Juvenile Code and art. 134 of the Civil Code). This lack of capacity is replaced by parental authority and, alternatively, by the delegation of parental authority to a legal institution or to a guardian for the management of assets (art. 137 of the Civil Code). These amendments were recently introduced in the Civil Code. The lack of capacity of minors ends when they have reached the age of majority or are fully emancipated by marriage and are thus capable of taking care of themselves and disposing of their assets (art. 137 of the Civil Code).

B. Legal capacity of minors

43. Although minors generally lack capacity to exercise rights, the law gives them capacity to perform acts commensurate with their intellectual, moral and social maturity. Children may thus personally and freely perform legal acts which correspond to their age, for which they enjoy capacity and which involve only minor expenditures or the disposal of minor assets (art. 135, para. 2 (a), of the Civil Code).

44. Minors may also practise any occupation or trade not prohibited by law, provided that they have attained the age set by labour legislation and perform all the necessary legal acts necessary to practise that occupation or trade (art. 135, para. 2 (c) and (d), of the Civil Code).

45. Minors may also perform any acts involving the management and disposal of assets they have acquired by means of their labour (industry, military, arts, liberal profession), whether or not they live with their parents (art. 135, para. 2 (b) of the Civil Code).

46. Legal acts performed by a minor may be invalidated (art. 36, para. 1 (a), and art. 140 of the Civil Code) by his legal representative when the case is brought before the courts within one year of the request for invalidation and prior to the minor's attainment of majority or his emancipation by marriage. A legal act may also be invalidated by the minor's legal representative within the above-mentioned time limit even if the minor has attained the age of majority or emancipation, when he is under a disability or disqualification (art. 136, para. 1 (a), and art. 140 of the Civil Code).

47. A minor may voluntarily request the invalidation of an act which he performed, provided that he institutes proceedings within one year of having attained majority or emancipation (art. 1 (b) of the Civil Code). However, he may not apply to have the act declared invalid if, at the time the act was performed, he acted fraudulently by passing himself off as having attained the age of majority or emancipation (art. 136, para. 3, of the Civil Code).

48. An application for a declaration of the invalidity of an act performed by a minor may also be filed by any heir within one year of the minor's death, but prior to the date of the deceased minor's attainment of majority or emancipation by marriage. Invalidity may be challenged either by the minor, after majority or emancipation, or by his legal representative in the case of an act he was entitled to perform in his capacity as legal representative (art. 136, para. 2, of the Civil Code).

49. Minors may institute legal proceedings only through their representatives, except in the case of acts they may personally and freely perform (art. 10 of the Code of Civil Procedure). Criminal proceedings must be instituted by the legal representative in the event of loss or injury to the minor (art. 12 of the Code of Criminal Procedure).

C. Legal counselling without parental consent

50. On the basis of the preceding section, minors may seek legal counselling, if they are capable of doing so, from lawyers or public legal aid and counselling institutions. In matters outside the scope of their capacity to act, a legal representative must act on their behalf. Minors may apply to the Public Prosecutor's Office, which, by law must defend their interests.

D. Medical counselling without parental consent

51. Since a minor has legal capacity for certain acts which are commensurate with his intellectual maturity, making him undergo a medical examination requires his consent, provided that it has been proved that he is sufficiently mature to understand the implications of the examination. In such cases, the consent of the minor's legal representative is not enough, since the minor's consent is also necessary.

E. End of compulsory education

52. Children go to primary school at age six. Primary school is universal and obligatory and the obligation ends when the child has reached the age of 16.

F. Employment

53. The minimum age for the conclusion of a full-time or part-time employment contract is 14 years. Minors' employment contracts are governed by a specific regime, which will be analysed below (paras. 185 and 186) (art. 5 of Decree-Law No. 62/87 of 30 June).

Hazardous work

54. Article 160 of the Employment Contract Act provides that the Government determines which activities are prohibited to minors in order to protect them physically, morally and intellectually. Thus far, no activity has been prohibited to minors, as this is an area which is in urgent need of regulation and which is also part of the Government's programme. As will be shown in section VIII.B. below (paras. 185 and 186), national legislation offers a number of solutions as a means of preventing employment at too early an age and in difficult conditions, thereby protecting the physical and mental integrity of minors and guaranteeing their full and harmonious development.

G. Sexual consent

55. Sexual relations with a minor under age 16 are regarded as unlawful, since a minor is incapable of consenting to such acts. Cape Verdean law does not take account of the consent given by a minor under age 16. Accordingly, any man who has sexual relations with a girl under age 16 commits rape. Relations with a boy under age 16 are also punishable by up to one year's imprisonment. There are no statistics on the pregnancy rate of minors under age 16. A UNICEF study carried out in 1994 simply showed an under-18 pregnancy rate of 18 per cent.

H. Marriage

56. In general, minors may not marry. However, the law allows them to do so in exceptional circumstances. The courts authorize a minor under age 16 to marry, based on a substantiated request by him or his legal representative. The marriage of a minor under age 18 is invalid.

I. Voluntary enlistment in the armed forces

57. In order to perform military service as a volunteer, a minor must be at least 17 years old and have the authorization of his parents or his legal representative. Military service is compulsory for all men aged between 18 and 35 years.

J. Giving testimony or making a statement in court

58. In criminal proceedings, minors under age 7 cannot be witnesses, but may be heard as declarants, provided that they have the natural ability to make a statement (art. 216 of the Code of Criminal Procedure). In civil proceedings, minors under age 7 lack legal capacity to give testimony (art. 617 of the Code of Civil Procedure).

K. Criminal responsibility

59. Criminal responsibility on the grounds of age begins at age 16.

L. Restriction or deprivation of liberty

60. Minors under age 16 who commit any act characterized by law as a crime or an offence are subject to the following measures of protection, assistance and education:

(a) Arrest;

(b) Handing over to the parents or guardian;

(c) Requirement that they should do certain things or behave in a particular way;

(d) Educational assistance;

(e) Placement in an apprenticeship or a job in an official institution or social welfare organization;

(f) Placement in an institution for the protection of minors.

61. In practice, such measures have not always been applied[25] and that is the result of paralysis in the operation of the competent body, the Juvenile Protection Committee, [26]the lack of appropriate institutions for the implementation of measures such as those referred to in subparagraphs (e) and (f) above; the lack of institutional conditions in the courts[27] and in the police department to speed up procedures (the backlog of cases which are regarded as more

urgent by the law and which take up practically all of the judges' and prosecutors' time and energy; and the quantitative and qualitative shortage of human resources) and failure by parents or other legal representatives of the child, society and competent organizations and bodies to report cases in which such measures are applicable.

62. Minors on trial for the commission of an offence may not be sentenced to more than eight years' imprisonment (arts. 108 and 55/5 of the Penal Code). Criminal law provides that minors with a criminal record may serve their sentence in a youth prison or in a rehabilitation institution, but, in practical terms, they cannot do so because infrastructure of this kind is lacking. All convicted minors thus serve their sentences in ordinary establishments, but they are kept separate from other offenders, although this is not always possible because of the shortage of space in such establishments. Criminal law also provides for the possibility of granting conditional release to minors who have been found guilty and sentenced to a term of imprisonment, provided that they are at least 25 years old and have proven that they are qualified, even if they have not served half of their prison term.

M. Consumption of alcohol

63. The prohibition on the consumption of alcohol by minors was governed by Ministerial Decree No. 4544 of 3 April 1954. According to this Decree, minors under age 16 who were not accompanied by a parent, a guardian or other family member could enter bars or places where alcoholic beverages were sold only to run an errand or give someone a message. This prohibition was, however, not respected. In view of the harm that alcohol can do to children, the National Assembly adopted an act prohibiting the sale, offer, supply and consumption of alcoholic beverages to minors under age 18 (Act No. 27/V/97 of 23 June).

64. This act entered into force on 1 October 1997. Prior to its adoption, the Ministry of Justice and Internal Administration waged a major campaign to raise the awareness of civil society. Two implementing decrees were published on the same date: Ministerial Decree No. 54/97 of 9 September, which defines the types and dimensions of signs which indicate the prohibition and which are displayed by the owners of establishments where alcoholic beverages are sold; and Regulatory Decree No. 13/97 of 22 September, which determines the conditions for the admission to recreational and cultural entertainment facilities of minors aged 16 and over and their stay until midnight. As a result of the entry into force of this legislation and strict checks by the authorities, minors have stopped frequenting establishments and entertainment facilities where alcoholic beverages are served. The Government has instructed the competent authorities to implement permanent monitoring measures to achieve the objectives set. It must be stressed that young people, civil society, parents and education officials, have all obeyed the law.

65. The Government included an amount in the 1998 State budget which is intended to finance activities to raise awareness of and prevent minors under age 18 from consuming alcoholic beverages and going to places where such beverages are served.

III. GENERAL PRINCIPLES

A. Non-discrimination (art. 2)

66. Since Cape Verde's accession to the status of an independent and sovereign State, the principle of the equality of all citizens before the law has been considered an inviolable right. All laws which, directly or indirectly, created situations of inequality, especially on the basis of sex or of birth in and out of wedlock, have been repealed.

67. Taking the same approach as the previous Constitution, the current Constitution sets forth the principle of equality (art. 22) in the section relating to the rights and duties of citizens, stating that "Every citizen shall be equal in social dignity and shall be equal before the law. No one shall have privilege or benefit or be injured, deprived of any right or exempted from any duty on account of race, sex, ascendancy, language, origin, religion, social and economic conditions or political or ideological convictions". To ensure that this principle is respected, the Constitution requires the State "to undertake to eliminate restrictions which are conducive to discrimination against women and to ensure the protection of their rights and those of children" (art. 85, para. 2).

68. The Constitution also stipulates that the family and society guarantee the protection of the child against any form of discrimination or oppression (art. 87), and prohibits discrimination against children born out of wedlock and the use of any discriminatory designation concerning affiliation (art. 44). No discrimination is practised in public or private institutions. However, there is a need for studies at the family level in order to verify whether this principle is observed by parents when dealing with children, especially girls. There are in fact indications that, in some families, particularly those in rural areas which are experiencing economic difficulties, girls are taken out of school and assigned household tasks such as cooking, fetching water and pasturing animals. A general, widely held view is that the performance of household tasks is a necessary skill for girls to acquire and that such tasks are womens' work.

B. Best interests of the child (art. 3)

69. The principle of the best interests of the child, which will be analysed later, was included in national legislation even before the Convention was ratified, but it was given greater force in the Cape Verdean legal system with the ratification of the Convention in 1991, the Constitution in 1992 and the African Charter on the Rights and Welfare of the Child in 1993. The rules and principles contained in the Convention and the Charter take precedence over all internal legislative and statutory instruments (art. 114, para. 4 of the Constitution). Consequently, any ordinary legal provision which is contrary to the rules and principles of the above-mentioned instruments is illegal and should not be applied by the courts. In addition, all legislation concerning children should be interpreted in the light of the principles contained in the Charter and the Convention.

70. As stated above, although the principle of the best interests of the child was not formally and explicitly introduced into Cape Verdean legislation until the entry into force of the Constitution, the Conventions, and the Charter, it had already been referred to in certain areas relating to children. In 1981, the Family Code stipulated that parental authority should be

exercised in the best interests of the children (art. 60, para. 2), that their assets must be disposed of only in their best interests and when manifestly necessary or desirable (art. 61, para. 2) and that a divorce could not be granted unless "the best interests of the child were fully protected" (art. 32, para. 2).

71. Adoption, which is possible only for minors, is permitted only in the interests of the adoptee and of children in general. Since 1991, the year when the Convention entered into force, all decisions relating to children adopted by public or private institutions have had to give priority to the best interests of the child.

72. Despite the lack of statistics in this area, it may be stated that there is little reference to the best interests of the child in court decisions; however, even when not cited explicitly, the best interests of the child underlie or are implicit in such decisions.

C. Right to life, survival and development (art. 6)

73. Life and physical and moral integrity are inviolable in Cape Verde (art. 21, para. 1, of the Constitution). The right to health is guaranteed to all citizens regardless of socio-economic situation (art. 27 of the Constitution and art. 3 of the Basic Health Act (Act No. 62/111/89 of 30 December 1989)). In addition, the section of the Juvenile Code relating to special rights for children provides for the right to healthy growth and development. This right is also provided for in articles 119, paragraph 1 (c), and 122, of the Civil Code.

74. Promotive and preventive health care is free of charge (art. 34 of the Constitution). Vaccination coverage for children under one year of age is currently 64.2 per cent, according to 1995 statistics. Care is also free for pregnant women, children aged two and younger and vulnerable people suffering from disease.[28]

75. Despite the country's economic difficulties, many steps have been taken to improve the quality and efficiency of health services. One indicator reflecting these efforts is the progressive reduction of the infant mortality rate. More detailed information is found in chapter VI on basic health and welfare.

D. Respect for the views of the child

76. As the Convention and the Charter take precedence over internal legislation, the principle that children's views should be sought and that they have the natural capacity to be heard in any legal or administrative proceedings affecting them must be respected. Consequently, although this right is absent from the procedural rules, it will have to be included in any regulations concerning parental authority when a child shows himself to be capable of communicating.

77. With regard to adoption, the law requires the consent of the adoptee when he or she is over 12 years of age and also sets forth the obligation to hear the adopter's children when they are over 12 years of age, except when it would be difficult to do so (art. 82, para. 2, Decree No. 17/83 of 2 April). If the adoptee is under the care of an educational or welfare institution, the institution must be heard by the court (art. 1931, No. 2 of the Civil Code).

E. Copyright

78. Children are entitled to benefit from patrimonial and personal rights deriving from their intellectual creations and are consequently the sole holders thereof (Act No. 101/V/90 of 29 December). When children are incapable of exercising patrimonial rights, they are exercised by their legal representatives and personal rights are exercised by children as soon as they have the capacity to understand them.

IV. CIVIL RIGHTS AND FREEDOMS

A. Name and nationality

1. Name

79. The Civil Code establishes the right of everyone to use his or her full or abbreviated name and to oppose anyone who makes illegal use of that name for identification or any other purpose (art. 70, para. 1). The right to a name was embodied in the Juvenile Code (art. 10) as a special right which a child can use freely and whose illegal use by other persons he can oppose. This approach is reflected in the amendments to articles 119, paragraph 1 (a), and 120.

80. According to the Civil Register Code[29] a child must be recognized within 30 days following his birth. This legal requirement is not observed by parents and, according to recent studies, many children are not recognized. A study entitled "Health of children under five in Cape Verde" showed that 80 per cent of children under five years of age have not been recognized and that this percentage is higher among modest families. The reasons mentioned were lack of money, absence of one of the parents and negligence.

81. To deal with this situation, the Government, through the competent service of the Ministry of Justice and Internal Administration and in cooperation with ICM, conducted a public awareness-raising campaign aimed at the recognition of children. Last year, for example, parents who intended to recognize their children were exempted from the payment of taxes and fines (Decree-Law 10/97 of 10 February). The results were positive: at the end of 1998, 20,595 children had been recognized. As for the child's right under the Convention to know his or her parents, the birth certificate must bear the name of the father and the mother.

82. When the name of the father or the mother is not mentioned, the Civil Register official is under an obligation to inquire about the identity of the parent not present. If there has been no official investigation and if paternity or maternity has not been established, when the children acquire legal capacity, their legal representative or recognized parent can institute paternity or maternity proceedings (art. 54 of the Family Code). It is presumed that the father of a child born in wedlock is its mother's husband (art. 50), unless this presumption is refuted by the mother (art. 50).

83. With the recent changes to the Family Code and since the delegation of competence for official investigations to the Civil Register services, which has hitherto been the case, has proved impractical owing to the shortage of human resources and means of exercising this authority effectively, the official registering the birth is responsible for extracting a copy of the portion of

the birth certificate recognizing the child and submitting it to the Public Prosecutor's Office so that formal paternity or maternity proceedings may be instituted (arts. 1792 and 1793 of the Civil Code). The child's name generally consists of his or her first name and the parents' surnames. However, the law also permits the use of one of the parent's surnames. The child's surname may be changed only in the event of subsequent recognition, adoption or marriage.

2. Nationality

84. In accordance with the Nationality Act (Act No. 80/III/90 of 29 June), the following are considered to be Cape Verdean citizens:

(a) Persons born in Cape Verde to a father or a mother of Cape Verdean nationality;

(b) Persons born abroad to a father or a mother of Cape Verdean nationality in service with the State of Cape Verde;

(c) Persons born in Cape Verde who have no other nationality;

(d) Persons born in Cape Verde to a father or a mother who is stateless or of unknown nationality.

The child of a father or a mother who has acquired Cape Verdean nationality may acquire Cape Verdean nationality. Cape Verdean nationality may be also acquired by a foreign child or a child of unknown nationality adopted by a Cape Verdean. Stateless children adopted by a Cape Verdean automatically acquire Cape Verdean nationality.

B. Preservation of identity (art. 8)

85. The components of Cape Verdean identity are the name and nationality, which may not be arbitrarily changed. It is possible to change a child's name only in cases of recognition or adoption. Apart from the above-mentioned cases, there can be no changes to the child's name unless the best interests of the child so require. A child's nationality may be changed at the behest of his or her legal representatives. However, a child who has lost Cape Verdean nationality through a declaration made during his or her period of legal incapacity may reacquire it two years after the end of the period of incapacity.

C. Freedom of expression and information (arts. 13 and 17)

86. The Constitution sets forth freedom of expression and information as a fundamental freedom (art. 47), stating that all persons, including children, have freedom to express and to disseminate their ideas through words, images or any other means and that all persons have freedom to inform and be informed and to seek and disseminate information and ideas in any form, without limitations, discrimination or impediment. The right to be informed is interpreted as being the right to be genuinely informed, either by the media or by government bodies. These freedoms cannot be subject to censorship and are limited only by the right of every citizen to honour, reputation, privacy and family life and by the need to protect young people and children.

87. The Constitution (art. 46) guarantees freedom of the press and the State ensures the freedom and independence of the media in relation to political and economic power, the non-subjection of the media to censorship, the independence of journalists vis-à-vis the Government, the administration and other public bodies, and the existence and operation of a public radio and television service.

88. The press and the media are governed by a set of ordinary laws that replicate the principles embodied in the Constitution of the Republic. The Advertising Code (art. 19) contains specific rules governing advertising aimed at children, which must take their psychological vulnerability into account and children may not appear in commercials where there is a connection between them and the product being advertised.

89. Advertising for alcoholic beverages and tobacco is prohibited (Advertising Code, art. 21). Any advertising which is racially, sexually, politically or religiously discriminatory or offensive or is contrary to public morals and decency is also prohibited (art. 8).

D. Freedom of thought, conscience and religion (art. 14)

90. The Constitution (art. 27) guarantees freedom of thought, conscience and religion. All citizens have the right to practise a religion or not, to have a religious conviction of their own choice, freely to participate in the act of worship and freely to express their faith and to disseminate their doctrine or conviction, provided that they respect the rights and well-being of others. The State is secular and non-denominational. Churches and other denominations and religious communities are separate from the State and may freely disseminate their faith and expand their community. Religious instruction is permitted. It is for the child's representative to choose the child's religious instruction until such time as the child has attained the necessary intellectual maturity (art. 1825 of the Civil Code). The right to conscientious objection is also guaranteed by the Constitution.

E. Freedom of association and of peaceful assembly (art. 15)

91. Freedom of association and freedom of assembly are also fundamental freedoms explicitly provided for in the Constitution (arts. 51 and 52). Although the legal recognition of associations is the Government's prerogative, they may be established without any authorization. However, the framework-law governing the establishment of associations (Act No. 28/II/87 of 24 October) stipulates that associations are composed of adults. Public meetings and demonstrations may be held in any place, including public places, with no application for authorization. There are no restrictions on children's freedom of assembly and freedom to demonstrate peacefully.

F. Protection of privacy

92. The right of everyone to protection of privacy and family life is set forth in the Constitution (art. 38), previous to which it was protected by the1966 Civil Code, which establishes a duty to protect the privacy of others (art. 78). The extent of this protection is

defined according to a person's situation, which necessarily implies that it is less broad for younger children and in cases where it is the child's legal representative who is responsible for the intervention.

93. Fraudulently opening a letter or a paper belonging to another person is a crime punishable by imprisonment. However, such an act is not punishable if committed by parents or guardians of children who are still under their authority.

G. The right to honour and reputation

94. Children are entitled to protection of their honour and to consideration for their good name and reputation. The criminal legislation protects the honour of everyone, including children, by punishing acts undermining such rights (art. 407 of the Code of Criminal Procedure).

H. Prohibition of torture and other cruel, inhuman or degrading treatment or punishment (art. 37 (a))

95. Torture is punishable in Cape Verde by up to 12 years' imprisonment (Act No. 20/IV/91 of 30 June). The Constitution considers evidence obtained through torture, force or violation of physical and moral integrity to be null and void (art. 33, para. 6, of the Constitution).

96. The age of the person tortured, to the extent that it constitutes a circumstance indicating cruelty, inhumanity, violence or perversity on the part of the torturer, may aggravate the responsibility of the torturer. In 1992, Cape Verde ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Act No. 44/IV/92 of 9 April).

97. The Juvenile Code stated that children cannot be subjected to physical ill-treatment, lack of care or affection or mental cruelty endangering their physical, intellectual and emotional development and that all such acts are punishable. Amendments to the same effect were recently introduced into the Civil Code, specifically in articles 119, paragraph 1 (i) and (l), 128 and 130.

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

A. Parental authority (art. 5)

98. The Constitution recognizes the authority of parents, who are irreplaceable to their children, and guarantees them protection by the State and society in fulfilling their obligations (arts. 842 and 872). The 1981 Family Code made the parents jointly responsible for rearing and maintaining their minor children and gave each one the same duties and the same rights. This principle has been replicated in the new Civil Code (arts. 1817 et seq.), with a few justifiable limitations. Parental authority must be exercised in the best interests of the child.

99. If the parents do not live together and the exercise of parental authority proves difficult, the court determines which of the parents has custody of a minor child and which rights and duties are held by each parent. Parental authority must not be interfered with unless it constitutes

a serious danger to the child's physical, moral and psychological security and a judicial decision has been handed down to that effect. In cases of manifest failure to exercise parental authority, the court may divest one or both of the parents of authority over the children.

100. Parental authority ceases with a child's majority or emancipation, the death of the parents or the child, or adoption (art. 1848 of the Civil Code). Parental authority is shared with various social welfare agencies, especially those relating to child welfare and education, under conditions clearly defined by law.

B. Parental responsibilities (art. 18, paras. 1 and 2)

101. Parents must provide assistance to children born in or out of wedlock, especially with regard to maintenance, care and education (art. 86 of the Constitution). They are responsible for:

(a) Caring for and supervising their children and ensuring their maintenance, health, well-being and normal development;

(b) Ensuring and supervising their intellectual and cultural education and training by instilling in them a love for study and work;

(c) Providing them with proper moral and social instruction so that they may respect others, themselves and the community;

(d) Conscientiously managing their assets;

(e) Representing them, even from birth, in all legal acts requiring the parents' presence, except as prohibited by law;

(f) Authorizing them to perform acts which depend by law, on their consent;

(g) Deciding on their domicile for as long as they remain under the parents' control.

102. Abandonment of a child or neglect of his or her education, maintenance or care, or failure to fulfil or inadequate fulfilment of any other duty or obligation of parents may constitute a punishable act (art. 1826 of the Civil Code).

103. To enable parents to discharge their duties as effectively as possible, a few support measures are available to them. These include a family allowance for workers with dependent children under 14 years of age and a breastfeeding subsidy for women for the first six months following the birth of a child to a worker registered with the social security system. The family allowance may be extended to children over 14 and under 18 years of age, if they are successfully attending secondary school.

C. Separation from parents (art. 9)

104. When parents separate or divorce, they must come to an agreement concerning the custody of their minor children and the responsibilities each one of them will have. In the event

of divorce by mutual consent, such an agreement is absolutely necessary.[30] If the parents are unable to reach an agreement, the court will regulate the exercise of parental authority. The court's decision will be taken in accordance with the best interests of the child (art. 90/I of Decree No. 17/83 of 2 April). As stated earlier, parental authority will be suspended only in cases where the child's physical and moral integrity is endangered.

105. In such cases, the court appoints a guardian (arts. 1870 et seq. of the Civil Code), who will be responsible for the child and defend his or her interests. The suspension of parental authority over the children does not exempt the parents from their maintenance obligation (art. 1849, No. 2, of the Civil Code).

106. Family issues are not limited to legal aspects. They are particularly complex as the family environment has been seriously affected by emigration and also because family ties have been weakened owing to far-reaching social changes.

107. A study conducted by ICM and the National Programme of Action to Combat AIDS (PNLCS) highlights the fundamental aspects of this problem with regard not only to AIDS orphans, but to children in general.[31]

D. Family reunification (art. 10)

108. The Constitution provides for the right of every citizen freely to leave and to return to the national territory and even to emigrate (art. 50/I). This right may be restricted only by a judicial decision. Cape Verdean children may leave the country freely, with permission from their parents or the persons who have parental authority over them.

109. Foreigners, including children, who wish to enter the national territory in order to join their parents or another family member residing there are required to have a residence visa. One of the factors looked on favourably in evaluating a residence application is the existence of family ties to nationals or foreigners residing in the territory (art. 47 of Decree-Law No. 6/97).

110. Cape Verdean law prohibits the issue of transit, tourism or residence visas to persons who have not attained majority under their national legislation, without permission from the father, mother or guardian (art. 32 of the Decree-Law of 5 May).

111. The law empowers the authorities to refuse entry to foreigners under 16 years of age when they are not accompanied by the person holding parental authority, when written permission from that person is not presented or when there is no one in the national territory to take charge of the child (art. 32 of the Decree-Law of 5 May).

E. Recovery of maintenance for the child (art. 27, para. 4)

112. The Constitution establishes the duty of parents to assist their children, especially with regard to maintenance, care and education.

113. The right to maintenance, which includes everything that is indispensable for the child's financial support, health, dwelling, clothing, instruction and education,[32] is non-seizable,

imprescriptible, non-transferable and may not be used for compensation,[33] even when the amounts in question have already been fixed. Maintenance for the child may be required from the spouse or ex-spouse, descendants, ascendants, brothers, stepfathers or stepmothers and uncles (art. 4 of the Juvenile Code).

114. When the person required to pay maintenance does not do so voluntarily within 10 days following the payment of his or her salary, the court may order the amount in question to be deducted from the salary by the entity for which the debtor works. If failure to fulfil the maintenance obligation exceeds 60 days and it has not been possible to obtain payment in the above-mentioned form, the maintenance obligation will be the subject of a judicial order and will entail criminal responsibility.

115. The following also constitute crimes:

(a) Concealment or deliberate disposal of assets or income in order to avoid the maintenance obligation;

(b) Repeated failure to provide economic and moral assistance, on the part of parents, guardians or other persons responsible for a child's care;

(c) Desertion of the matrimonial home for more than six months and failure to respect the obligations of parental authority.

116. In order to facilitate the recovery of maintenance, Cape Verde acceded to the multilateral Convention on the Recovery Abroad of Maintenance.[34] An agreement has also been signed with Portugal, one of the countries which receives the most immigrants of Cape Verdean origin, making judicial decisions concerning maintenance immediately applicable in both signatory States.[35]

F. Children deprived of a family environment (art. 20)

117. Cape Verdean legislation stipulates that a minor is placed under Court supervision[36] when the parents:

(a) Are deceased;

(b) Have been divested of parental authority over the child;

(c) Have been prevented from exercising parental authority or have not actually exercised it for six months and have not delegated it to another person;

(d) Are unknown or have disappeared.

A guardian is appointed by the court, preferably from among the child's grandparents or brothers and sisters. If the child is over 12 years old, the court is obliged to hear his or her views concerning the guardian to be appointed. Guardianship is exercised in the best interests of the child and of society.

118. Another form of protection of the child is adoption, which will be analysed in detail in the following section.

119. The study on the traditional system of foster care for orphans mentioned earlier (see para. 107), describes the operation and principles of the system and also highlights the difficulties currently affecting it. The Government is analysing the situation, in particular the problem of placing orphans with large families in such a way as to preserve the child's identity.

120. The Government is aware of the need to implement the entire set of measures which are recommended by this study and which are to be implemented by governmental and non-governmental bodies with a view to strengthening the foster care system.[37] Among these measures, mention should be made of care institutions for children, which are often the solution of last resort after the placement of children in a family-type environment or with foster families has failed. Another measure to be considered is financial support for foster families which take in orphans. Most of these recommendations were endorsed at a meeting between governmental and non-governmental bodies held in April 1996 to discuss the results of the study.[38]

G. Adoption (art. 21)

121. Adoption is permitted as a means of defending the interests of the adoptee and the interests of children in general[39] and becomes effective only through a judicial decision. The court may order an adoption only if it is convinced that adoption entails advantages for the adoptee, is based on legitimate and reasonable motivations and involves no unfair sacrifices for the adopter's children; the adopter must therefore care for the adoptee for a sufficient period of time to establish a tie that will lead to a relationship similar to biological affiliation (art. 1923 of the Civil Code). Adoption provides the adoptee with a tie to his adoptive family which is equal to the tie between biological parents and children. The adoptee loses his former surnames and his new surname consists of the surnames of his adoptive father and mother or one of the two surnames.

122. Under Cape Verdean legislation, when the adoptee's parents are living and have parental authority over the child, their express consent is required for the adoption. Express consent is also required in the following cases (art. 1928 of the Civil Code):

(a) From the child when he or she is more than 12 years old;

(b) From a spouse who is not legally separated;

(c) From a common law spouse;

(d) From an ascendant or collaterally related adult, up to the third degree;

(e) From the person responsible for the adoptee, when the parents are not present.

123. The court may, however, dispense with the consent of the persons who might be entitled to give it:

(a) If they are deprived of their mental faculties;

(b) If there are, or prove to be, difficulties in hearing them;

(c) If they behave in an inappropriate manner with the adoptee, whether they are the parents or one of the persons referred to in subparagraphs (d) and (e) above.

If the adopters have children of more than 12 years of age, the court must seek the children's views concerning the adoption.

H. Periodic review of placement (art. 25)

124. Interim measures of protection for children may be reviewed at any time, in the child's interest (art. 25 of Decree No. 17/83 of 2 April). Furthermore, several provisions of the Civil Code and other instruments governing matters relating to children's legal status, establish the principle that any protective measure or provision ordered by the competent bodies or authorities may be reviewed at any time.

I. Illicit transfer and non-return (art. 11)

125. There have been no reports in Cape Verde of children illicitly transferred or held abroad. The violent or fraudulent removal of a minor under seven years of age from his home or place of residence, with the express complicity of persons responsible for his care, constitutes a crime punishable by two to eight years' imprisonment (art. 342 of the Penal Code). Coercion of a minor to leave the home of his parents or guardians also constitutes a crime punishable by two years' imprisonment (art. 343 of the Penal Code). Concealment, exchange or incitement to immoral behaviour of children are punishable by two to eight years' imprisonment (art. 342 of the Penal Code). In all the above-mentioned cases, the prison term is increased by 16 to 20 years if the official does not indicate the child's place of residence.

J. Abuse and neglect (art. 19)

126. The Juvenile Code stipulates that children may not be subjected to ill-treatment or lack of care, lack of affection or mental cruelty endangering their physical, intellectual or emotional development. The Civil Code (arts. 119, para. 1 (1), and 128) takes the same approach. The ill-treatment of a minor by persons responsible for his guidance and education is punishable by one to five years' imprisonment (Decree-Law No. 4/97 of 28 April). An offence causing bodily harm committed against a minor is punished in accordance with the general terms of the Penal Code, with the same penalty as if the act had been committed against persons having attained the age of majority. Such a crime committed by a person having authority over the child is considered to be an aggravating circumstance.

127. ICM recently established a telephone service, "SOS Children", to report cases of ill-treatment, abuse and neglect of children; the service guarantees confidentiality and anonymity for callers. The use of corporal punishment or degrading treatment[40] is prohibited in schools and public or private institutions and this principle is generally observed in practice.

VI. BASIC HEALTH AND WELFARE

128. Despite the great economic difficulties facing the country, Cape Verde's health system covers the whole of the national territory and devotes a good deal of attention to children, particularly in terms of preventive measures. In 1994, there was a doctor for every 4,270 persons, a nurse for every 1,642 persons and a bed for every 633 persons. Statistical data for 1995 give figures of a doctor for every 3,017 persons and a nurse for every 1,724 persons.[41]

A. Survival and development (art. 6, para. 2)

129. Despite some major constraints, educational, health and legislative measures have been taken to ensure children's survival and development. A large majority of Cape Verdean children live in social, economic and environmental conditions that are bad for their health. Their homes are in fairly poor condition and are overcrowded (housing seven people on average) and this can help spread infectious diseases, especially respiratory diseases. Conditions are more precarious in rural areas.

130. Sanitary conditions are in a critical state. Almost two thirds of homes in urban areas and over 90 per cent of those in rural areas have no sanitary system or latrines. The biggest problem for the population is probably drinking-water supply: only 30 per cent of homes with young children in urban areas and 3 per cent of those in rural areas have any water system and, even when they do have a supply, they are often short of water and families have to fetch water from wells and water tankers. The unreliability of the sanitation system and the shortage of water lead to persistent malnutrition and diarrhoea in children. Some 16.2 per cent of Cape Verdean children suffer from a long-term nutritional deficit (small size for their age), 4.8 per cent from some form of serious malnutrition and 11.4 per cent from moderate malnutrition. The problem of long-term malnutrition is more common in rural areas than in urban centres, where one child in five is affected.

131. Child mortality, which is an important indicator, also reflects children's living conditions. Between 1992 and 1995, the trend was downwards; in 1995, it stood at 53.7 per thousand and, last year, at 45.1 per thousand.[42] There are numerous obstacles to improving access to care and improving the quality and efficiency of health services. Nevertheless, as the indicators show, the health services' contribution to the survival and development of children is uneven.

132. In 1995, a minimum social welfare system was introduced (Decree-Law No. 2/95 of 23 January). It guarantees free care, food aid and a monthly allowance for people considered as vulnerable (Ministerial Orders No. 26/95 of 20 May and No. 29/95 of 12 June).

B. Disabled children (art. 23)

133. It is estimated that 5 to 7 per thousand of the population have a disability. Under article 72 of the Cape Verdean Constitution, they have the right to the special protection of their family and society, which will enable them to receive appropriate education and treatment and, where necessary, social rehabilitation. In the areas of education and health, community rehabilitation programmes and the development of a special integrated educational programme reflect this commitment.

134. Article 37 of the Constitution deals with the rights of disabled persons in the area of education and establishes the goals of special education. The same provision covers the organization of special education and recognizes the need to support families. Financial support is guaranteed by social welfare services, which pay families a monthly allowance of C.V. Esc 500 for each disabled person. For basically financial reasons, this support has been reduced at a time when policies for the disabled have not yet been fully developed.

135. Disabled minors over 14 years old may be entitled to family allowances if they are unable to perform paid work.

C. Health and health services (art. 24)

136. Children's right to health and to access to the relevant services is recognized in the Constitution and the framework law on health and is put into effect by government policies and through the work of the health services.

137. Various measures have been taken in the following areas:

(a) Child vaccination, which has fairly good coverage (over 80 per cent covered by individual vaccinations);

(b) Monitoring of growth: this is carried out effectively, with almost 95 per cent of children being issued with a growth certificate (81 per cent of children can produce their growth certificate). There is cause for some satisfaction with the treatment of diarrhoea, although it is still problematic, as in many other countries. Eighty per cent of children received oral rehydration therapy, and in almost three quarters of cases of diarrhoea, the use of liquids was increased. As for mothers, measures have been taken in the field of antenatal care, which now includes anti-tetanus vaccinations, even in rural areas, and there has been some progress in the use of contraceptive methods;

(c) Programmes to combat the main causes of child mortality: efforts to combat infectious and parasitic diseases and respiratory infections have played a leading role in reducing mortality. Mortality caused by infectious and parasitic diseases among children under five fell from 5.4 per thousand in 1992 to 3.9 per thousand in 1995; in the same age group, mortality caused by respiratory infections fell from 1.6 per thousand in 1992 to 1.3 per thousand in 1995;[43]

(d) Health education: the support of the National Centre for Health Development is one of the most important contributions to the promotion of children's health. However, it should be stressed that, until the serious problems of water supply and environmental sanitation (referred to above) have been solved, the situation will remain problematic;

(e) Literacy education for women (26,189 in almost 17 years), which has helped improve health conditions insofar as mothers are more likely to understand the health care recommended for their children.

138. A 1994 study showed that around 42 per cent of children under age five had consulted a health worker over a period of three months, a figure that rises to 55.7 per cent for children under

one year of age.[44] The branches of the mother and childcare/family planning programme are undoubtedly responsible for the best nationwide medical coverage for the under-fives. It will be recalled that this is the programme that was awarded the UNICEF "Children and their rights" prize in 1996. The study showed that 94.5 per cent of children had a certificate from the programme.

139. In the context of maternal and child welfare (MCW) services and action by other organizations, the problem of malnutrition is the fundamental concern. Serious malnutrition is estimated at 4.8 per cent and moderate malnutrition at 11.4 per cent for children under five;[45] with that in mind, attempts are being made to rectify the situation, which is jeopardizing children's health and development. Children's weight is checked and guidance is permanently available to mothers.

140. School-age children benefit from a school meals programme that guarantees them a hot meal and promotes good eating habits. In 1996, 87,423 primary-school pupils benefited from the programme.[46]

141. As malnourished children often suffer from diarrhoea, quick and effective oral rehydration treatment has been made available. One very positive development is that over half of the children under the age of five who had diarrhoea in 1994 took Oralite.[47]

142. Nonetheless, one of the decisive factors in children's health is the lack of drinking water. Despite all efforts, only 52 per cent of the population had access to drinking water in 1992,[48] although this percentage rose to 72 per cent in 1996.[49]

143. Information on children's health, hygiene and food issues is disseminated, with a few exceptions, through public information services and specific campaigns, with the support of the National Centre for Health Development. Information for adults on issues such as prevention in general and family planning is provided by the *Alfa* newspaper (8,000 copies in 1996) and the "Education for family life" programme. These educational efforts help to counter the negative influence of traditional practices, although the latter do not seem to carry as much weight in Cape Verde as they do in other African countries.

144. Given the great difficulties facing the country, a large number of the children's health services benefit from international support, including institutional support, training, research and help in kind. Among the organizations from the United Nations system involved are the World Health Organization (WHO), the World Food Programme (WFP) and UNICEF.

D. Social security and childcare services and facilities (arts. 26 and 18, para. 3)

145. All employees, whether they are civil servants or State officials or working for someone else, are entitled to a family allowance. The allowance is paid for each child under age 14, up to a maximum of four children per family. Employees registered with the social security system are also entitled to an allowance if they are responsible for children under the age of 14 or disabled persons. Social security also pays a "nursing allowance" for every infant and the insured person's minor children are entitled to medical assistance and medicines.

146. There are difficulties in respecting the principle that the State is responsible for ensuring that children of working parents have the right to benefit from child-care services and facilities for which they are eligible. There are severe limitations with regard to institutions providing care for children under age six; there are insufficient crèches and kindergartens. The situation for children over age six is different, as primary-school coverage is practically universal.

E. Standard of living (art. 27, paras. 1-3)

147. The principles established in article 27, paragraphs 1 to 3, of the Convention are enshrined in the Constitution, the Civil Code, legislation on minors and the other international conventions signed by Cape Verde.[50] The family is considered as the fundamental unit and basis of the whole of society and the State has to protect it and establish the conditions for it to exercise its social function and for each of its members to find personal fulfilment (art. 84 of the Constitution). The Constitution also establishes that children may not be separated from their parents except in cases where it is necessary in order to protect the child's development and provide assistance to minors. Finally, the Constitution establishes the State's responsibility for creating the conditions necessary for the integral development of children's physical and intellectual capacities and for special care in cases of illness, abandonment or lack of affection.

F. Cooperation with public and private national organizations

148. As has already been mentioned, cooperation with Cape Verde's various foreign partners is a key aspect of action to protect and defend children. Among the public organizations benefiting from this cooperation are the mother and childcare/family planning programme and the Cape Verdean Juvenile Institute, which receive much of the assistance, although other welfare, health and education bodies also benefit from it. Among the private organizations, the role of Caritas Cape Verde, the Cape Verdean Red Cross, the Cape Verdean Women's Organization, the Associaçao de Apoio a Auto-Promoçao da Mulher no Desenvolvimento (MORABI) and the Associação Caboverdiana para a Protecção da Familia (VerdeFam) should be highlighted.

VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

A. Education, including vocational training and guidance (art. 28)

149. The Cape Verdean Constitution (art. 49) recognizes everyone's freedom to learn, to receive an education and to teach and guarantees the right to attend school. The inclusion of these freedoms and rights in the Constitution is the logical corollary to the decisions already embodied in ordinary legislation, especially in Act No. 103/III/90 of 29 December, which defines how the educational system is organized and run. The Act makes primary education compulsory, establishes its objectives and organizational structure and stipulates that the State, together with families, must bear the costs of compulsory education.

150. Now that these principles have been established, genuine efforts to put them into practice should be stressed. These efforts are in the country's tradition of attaching particular importance to educational matters, despite some major constraints. There has been considerable investment

in the education sector: in 1990, public spending reached 4.1 per cent of gross domestic product (GDP), or 19.9 per cent of total public spending. In 1994, educational spending was 10.17 per cent of the overall investment budget. In the 1997 State budget, considerable resources were again allocated to education.[51]

151. In pre-school education, coverage for the age group between the ages of four and five was 56 per cent in 1994. The pre-school network is made up of kindergartens (rural kindergartens, pre-school groups, social centres and council-owned kindergartens), playschools (run by the Cape Verdean Solidarity Institute (ICS), the Cape Verdean Red Cross and the SOS Children's Village in Santa Catarina) and local kindergartens that are either privately owned or run by cooperatives. In 1994, 263 kindergartens accommodated 13,664 children.

152. The main constraints observed in pre-school education are poor human resources skills, the absence of supervisory bodies, the lack of an organized physical network, mediocre teaching, inefficient services and the fact that the State takes little responsibility for this subsystem.[52]

153. The figures for coverage of primary education are as follows: in 1994, for a cohort of 81,998 pupils, the gross school enrolment rate was 139.7 per cent and the net rate 95.5 per cent.[53] In 1996/97, the total number of pupils enrolled in primary education was 22,715 and the gross and net enrolment rates were 32.9 per cent and 29.6 per cent, respectively.

154. The percentage of children repeating a year (19 per cent) in primary education in 1990 is of some concern: indeed, only 51 per cent of pupils attending primary school complete this stage of their education. In 1994, the repeat rate fell to 15.7 per cent.[54]

155. Among the major investments in primary education, attention is drawn to those aimed at reorganizing the system to ensure, among other things, that schooling lasts for six years instead of four and those designed to offer social support.

156. In 1993, the 77,446 primary school pupils from all over the country had a hot meal at school and 25,279 were given school materials. This support and, more particularly, that related to the school canteen programme are the main elements in efforts to lower the drop-out rate, which in 1994 was only 3.3 per cent for girls and 4 per cent for boys.

157. In secondary education, the scenario is different. Only 23 per cent of pupils who complete their primary education go on to secondary education. Education is fee-paying and even though the registration fees are not very high (they rose in 1997 and the Government issued various pieces of legislation on the subject), access to it is still relatively limited. Despite the financial support (in the form of transport allowances and exemption from registration fees) given to the neediest pupils, most of whom are found among the poorest children from rural areas, these are precisely the children who are left out of the system. In 1994, for example, only 12,679 pupils were attending secondary schools. The figures for secondary-school pupils repeating a year are high (29.6 per cent in 1992).[55]

158. In some secondary schools, there are academic and career guidance offices trying to help young people make their choices. Although they are important, these offices find it very difficult to do their job, largely because of a shortage of staff.

159. Although higher education has no formal structure in Cape Verde as yet, post-secondary studies are being developed; access is limited by the shortage of places.

160. There is a scholarship programme to try to alleviate the financial difficulties of the most needy students trying for a place in one of the four higher-education institutions, which are: the Higher Education Institute, the Management and Marketing Institute, the Higher Engineering and Marine Science Studies Institute, and the Agrarian Research and Development Institute.

161. To make up for the limitations in intermediate and higher education, Cape Verde looks to foreign institutions, which every year train students in various academic fields. For this purpose, there is an important programme for awarding annual scholarships on a competitive basis to hundreds of the most deserving young people. In 1994, 1,634 holders of scholarships under cooperation agreements went to study abroad.[56] In 1995, 258 more students received scholarships. In order to boost the scholarship programme, efforts are being made to introduce some important changes that will guarantee the funding for educating new scholars.[57] In this way, an attempt is being made to become at least relatively independent of international cooperation funding and, to some extent, of Treasury funding.

162. A system of loans at preferential rates underwritten by the State has been set up. The loans are paid back at the end of the course, beginning a year after its completion.

163. These measures are a radical change from the policy followed until now, under which no money had to be paid back. Although the legislation is intended to benefit less well-off families, there are fears that observing this principle in practice may prove difficult. In any case, the legislation is due for review in two years' time.

164. The system envisages education abroad at the intermediate, higher and postgraduate levels, with intermediate and post-secondary education in Cape Verde.

B. Aims of education (art. 25)

165. The Framework Act on Education establishes the aims of education on the basis of a modern view of education. Efforts are being made at the various educational levels to cultivate moral values, solidarity, tolerance and respect for others. At the same time, efforts are being made to promote the national culture and develop the qualities in pupils that will allow them to become active members of society.

166. The various curricula and teaching materials, particularly in the framework of the reorganization of the education system, promote these ideas on a daily basis both in the classroom and in teacher training.

167. Since Cape Verde is culturally and physically a mixed-race society and there is no gender-based inequality in access to school, it is easier to develop integration policies and respect for different cultures, as advocated by the education system.

168. The environmental balance is so delicate that environmental concerns have to be borne in mind constantly, as reflected in a special programme that is part of the reorganization under way.

169. The importance of private education is recognized by the Constitution (art. 75). The Framework Act on Education outlines its main features. Private education is seen as complementary to State-run education and those who advocate it are encouraged to participate at the various educational levels. The implementing decree defines the conditions for establishing, authorizing and operating private schools and specifies the conditions for granting State aid.

C. Leisure, recreation and cultural activities (art. 31)

170. Children enjoy the right to recreation and cultural activities, including in school: the activities are integrated in courses, but are generally limited for lack of means. Schools also encourage participation in healthy leisure activities, such as the School Games which are held during the holidays and are open to all young people in the country. Children who do not go to school find it more difficult, but organize their leisure through sports and cultural organizations. The public and private media and State cultural departments organize many of these youth activities.

171. Despite the large number of young people, getting them to participate in healthy leisure activities continues to be one of the major challenges facing Cape Verdean society. There is a shortage of cultural and leisure centres throughout the country. Those which do exist, such as theatres, libraries, cinemas, museums, cultural centres, parks and art galleries, do not really meet people's needs. There is no national library, although building work has begun on one with Chinese assistance. The national archives sometimes act as a national library. The Development Documentation and Information Centre does important work on contemporary documents. There are some town libraries and there is a plan for travelling libraries to be run by the Institute of Culture and the Department for Extracurricular Activities. Generally speaking, libraries tend to be used by primary and secondary school pupils as a place to study rather than as a place for reading or cultural enrichment.

172. The only museums at the moment are the telecommunications museum in Mindelo, the "embryonic" museum at the National Crafts Centre and the first ethnographic museum in the country, which was opened in Praia by the Government in 1997 and which already has a collection of some 600 pieces. The Ministry of Education, Science and Culture is responsible for several projects now under way to set up museums and cultural centres.

173. The few theatres and cinemas that exist have poor sound and picture quality, and so entertainment is staged in improvised locales.

174. There are also not many parks and green spaces in towns, though the "Fifth of July" park in Praia is worth mentioning. In the 1970s and 1980s, multifunctional sports centres were built to stage not only sports, but also popular cultural activities.

175. As has already been mentioned, bilateral and multilateral cooperation is very important. The great effort being made to educate Cape Verdean young people and to reorganize the educational system would not be possible without the partnership of friendly countries and cooperation institutions. The countries include Portugal, Brazil, Switzerland, Germany, the Netherlands, the countries of the European Union, Cuba and China. The United Nations Educational, Scientific and Cultural Organization (UNESCO), the Calouste Gulbenkian

Foundation, the World Bank and the African Development Bank are the main cooperation institutions involved in the process of establishing a more modern and effective education system so that children's rights can be recognized and fully exercised effectively in this field.

VIII. SPECIAL PROTECTION MEASURES (arts. 22 and 38)

176. Given its geographical location and natural economic disadvantages, Cape Verde is not sought after by refugees as a host country. Article 36 of the Constitution nevertheless guarantees the right of asylum to aliens or stateless persons persecuted for political reasons or seriously threatened with persecution on account of their activities in support of national liberation, democracy or respect for human rights.

177. Cape Verde has never had any armed conflicts in its national territory.

A. Children in conflict with the law

1. The administration of juvenile justice (art. 40)

178. As pointed out above, young people must be over age 16 to be considered capable of infringing criminal law. Minors under age 16 who commit any act defined in criminal law as a crime are subject to the assistance, educational or corrective measures already mentioned.

179. The prohibition of the retroactive application of criminal law is a fundamental principle of the Cape Verdean legal system (art. 30 of the Constitution). It is also prohibited by the Constitution to apply penalties or security measures that are not expressly provided for in an earlier law (art. 30. para. 3). In matters of criminal procedure, the principle of the presumption of innocence still applies (art. 33, para. 1).

180. Defendants are not obliged to make statements on the acts of which they are accused and have the right to be assisted at all stages of the proceedings by defence counsel. If, at the beginning of the adversary stage of examination proceedings, the defendant has not appointed a lawyer, the court must appoint one. If defendants receiving assistance cannot afford to pay the lawyers' fees, these will be paid by the Legal Aid and Assistance Institute (IPAJ), a public-interest body representing lawyers and other judicial officials that offers free legal aid to the poor. This option is available only to minors or their legal representatives. Defendants who do not understand Portuguese receive the assistance of an interpreter.

181. For sentences handed down in first instance, there is always the possibility of an appeal to the Supreme Court of Justice.

2. Children deprived of their liberty (art. 37 (b) – (d))

182. Under article 28 of the Constitution, no one may be deprived, either partially or completely, of their liberty unless they have been convicted by a court of law. Every person detained or imprisoned without being found guilty must be brought within 48 hours before the competent judge, who explains to him in clear terms the reasons for his detention or imprisonment, informs him of his rights and duties, questions him in the presence of a defence

counsel freely chosen by him, gives him the opportunity to defend himself and takes a decision, giving reasons for upholding or maintaining his imprisonment (art. 29 of the Constitution). A detainee's family must be notified immediately of his detention or imprisonment and of where he is being held.

183. Minors sentenced to imprisonment are placed in ordinary prisons, but they have to stay in suitable cells that separate them from the other prisoners and they receive more favourable treatment. As has already been mentioned, it is not always possible to ensure that minors are separated from the rest of the prisoners because of space problems in national prisons.

3. The sentencing of children, with particular reference to the prohibition of capital punishment and life imprisonment (art. 37 (a))

184. Article 26 of the Constitution recognizes the inviolability of human life and prohibits torture, the imposition and execution of custodial sentences or measures or cruel, degrading or inhuman treatment, and the death penalty. Life imprisonment and imprisonment or other custodial measures for an unlimited or indefinite period are also expressly prohibited by the Constitution. Courts may not sentence minors to more than eight years' imprisonment. All these rules are rigorously adhered to by the police, courts and the public prosecutor's office throughout the national territory.

B. Children in situations of exploitation, including physical and psychological recovery and social reintegration (art. 39)

1. Economic exploitation of children, including child labour

185. Children of compulsory school age are expressly forbidden from working by the Constitution. From the age of 14, minors may enter into an employment contract, but any contract they sign can be invalidated at the request of their parents or legal representatives if the latter did not give their consent.

186. The normal working hours for minors may not exceed 38 hours a week and 7 hours a day, unless the tasks performed involve simply being present or the work is intermittent or exclusively devoted to the minor's training. In these circumstances, the working hours may be the normal ones, that is, 44 hours a week and 8 hours a day. Night work is prohibited for those younger than 16; minors over the age of 16 are allowed to work at night only when it is essential for their vocational training. Overtime is permitted only in cases of force majeure and when the minor is over age 16 and may not exceed 2 hours a day and 30 hours a year. The wage paid to minors for their work should be set according to the constitutional principle whereby wages are proportional to the quantity and quality of the work.

2. Drug abuse

187. In December 1989, Cape Verde ratified the 1961 Single Convention on Narcotic Drugs and the Convention on Psychotropic Substances. Drug use is prohibited and punishable by up to three months' imprisonment (Act No. 78/IV/93 of 29 November). However, if the user is a

minor and not a repeat offender and undertakes not to use drugs any more, he or she may be spared punishment. The sentence can also be suspended if the offender is a drug addict and agrees to undergo treatment or spend some time in an appropriate institution.

188. Drug-trafficking is punishable by a prison sentence of up to 15 years. The applicable sentence is always aggravated when substances and preparations are delivered to or intended for minors. The potential sentence for incitement to use narcotics or psychotropic substances is even more severe when the acts committed harm a minor.

189. Action to combat drugs is carried out basically by the judicial police, which is now in the process of being reorganized. An inter-ministerial commission, the Commission to Coordinate Action against Drugs, coordinates the action of the various State departments. The Commission comes under the Minister of Justice and Internal Administration, who, as a member of the Government, coordinates anti-drug activities. The Commission has a multidisciplinary and cross-sectoral membership, including some of the services involved in action to combat drugs, notably the services of the judiciary, the public prosecutor's office, the judicial police, the police force, the coastguard (which is a branch of the armed forces) and the government departments responsible for justice, health, education, youth and foreign affairs. The Commission may yet include seven more members - the number of non-governmental organizations (NGOs) - in its deliberative body. It has been active since 1996 and is responsible for coordinating all anti-drug activities, essentially in the areas of prevention and the treatment and rehabilitation of drug addicts. It is also responsible for preparing the national programme of action against drugs, which is now in its final drafting stage.

190. It will be noted that the instruments used to prevent and combat the use of psychotropic substances have not yet had the desired effect, as the main bodies to prevent and combat drug use have only recently been set up. The judicial police, for instance, was established in 1993 and began its work at the end of 1994; its services have not been introduced in the various parts of the territory where its presence and action are needed. The above-mentioned Commission was set up in 1995 and began its work only in 1996. The two institutions are still in the process of being established and have only limited material, technical, human and financial resources. Nevertheless, these bodies have performed valuable work so far and have achieved fairly positive results.

191. The Government is aware of the situation in the country with regard to drug-trafficking and drug use; the situation is not yet alarming but it is complex and requires closer and constant attention from the authorities and society in general. The Government is working to improve the ability of the preventive and anti-drug bodies to take action by giving them the go-ahead to act independently and by making them financially independent. The Government is further committed to developing mechanisms to coordinate all the services working, directly or indirectly, in the sector. The work of town councils and various organizations of civil society and the willingness they have shown to cooperate in combating this evil should be stressed.

3. Sexual exploitation and sexual abuse (art. 34)

192. Criminal law (art. 405 of the Civil Code) provides for one to two years' imprisonment for parents who, in order to satisfy the indecent desires of another person, incite, encourage or

facilitate the prostitution or corruption of children. If the crime is committed by some other person who is legally responsible for the child, the prison sentence is from six months to two years and, if it is committed by anyone else, the applicable penalty is three months (art. 406 of the Civil Code).

193. The sexual abuse of minors under age 16 is punishable by two years' imprisonment. However, if the crime is one of rape, that is, one involving penetration without the girl's consent, the applicable penalty is from two to eight years and from eight to twelve years if the victim is less than 12 years old. It can be seen that sexual abuse of girls is more severely punished than that of boys. This situation will be rectified in the new Penal Code, which is expected to be adopted in 1999.

194. Timid laws, insecurity in society, the weakening of family ties and the abandonment of children all serve to encourage sexual exploitation, especially in urban centres. There are no statistical data on the sexual abuse of minors, but cases of the sexual abuse of children are reported every day. All the cases reported are dealt with satisfactorily by the judicial bodies.

4. Other forms of exploitation

195. In addition to what has already been said, it should be stressed that, in the fight against the economic and sexual exploitation of children, the Constitution recognizes the right of children to the special protection of the family, society and the State and prohibits any possible legalization of practices that might constitute a form of the exploitation of children. The Government is aware of its obligation in this area and has incorporated a number of policies and political and legislative measures designed to prevent and curb the exploitation of children in the outlines of its plan for 1997-2000 and in its programme.

5. Sale, trafficking and abduction

196. Abduction is punishable under Cape Verdean criminal law, but in an unclear and unsatisfactory way (arts. 395-399 of the Penal Code). There is no penal provision specifically on the sale or trafficking of minors, although some provisions of the Penal Code (arts. 342-344) could be applied to certain kinds of acts similar to the sale or trafficking of children. This gap in the legislation is due to the fact that the Penal Code in force is over a century old. The Government is aware of the need to adopt a new Penal Code and requested that a draft be prepared; this draft is in the final stages of preparation and discussion. When the new code is adopted, acts that are inconsistent with the rights of children will be appropriately dealt with and punished.

6. Children belonging to a minority or an indigenous group

197. Given the homogeneity of the population, there are no minority ethnic groups in Cape Verde.

IX. CONCLUSIONS

198. Now that this report has been completed on the situation in Cape Verde with regard to the observance of the provisions of the Convention on the Rights of the Child, it is necessary to sum up the conclusions on what the Government needs to do in future to fill the gaps or rectify the shortcomings that still exist. One thing that is certain is that respect for the rights, especially the economic, social and cultural rights, of citizens in general and children in particular is a challenge and omnipresent goal to be pursued by States as they seek to advance people's welfare and the promotion and defence of human dignity and unimpeded individual fulfilment. In short, it is a question of promoting and defending development, which is bound to include the sphere of human development and which should be built on the solid foundation of today's children, who are the men and women of tomorrow, in each individual society and in the globalized world of the twenty-first century.

199. The following are the most important conclusions:

(1) It is clear from a reading of this report that Cape Verde has made significant progress in the promotion and protection of children's rights, despite the material, technical, human and financial difficulties which it has always faced and which are aggravated by natural adversity and permanent drought.

(2) In fact, there have been positive developments throughout Cape Verde's history since independence, with appreciable results in terms of the promotion and protection of children's rights and the right to development, as a result of the formulation and implementation of relatively consistent government policies.

(3) It has been shown that real progress has been made in the legislation concerning children, which incorporates the principles established in the Convention. It should be emphasized that Cape Verdean legislation anticipated some proposals that were later embodied in the Convention. However, it is still necessary to give effect to certain principles by establishing appropriate legal mechanisms, especially with regard to the establishment of institutions to support and rehabilitate juvenile offenders and minors suffering from diseases or impairments.

(4) Similarly, a number of areas need to be regulated so that full use can be made of the mechanisms and institutions that have been set up. This is true, for instance, of the protection, assistance and education measures provided for in the legislation in force.

(5) There is also a need to move forward as quickly as possible with the reform of various legal texts, including the Code of Civil Procedure, the Penal Code and the Labour Code, as well as legislation with important consequences for the legal status and situation of children, such as the laws prohibiting minors from engaging in certain activities, those regulating access by disabled persons to certain public services and goods and those setting the conditions for attendance at artistic and cultural shows and activities.

(6) Legislative and administrative measures need to be adopted to implement the National Declaration on Policy towards Children and Young People so that it has the desired effect.

(7) Despite the progress made, there are still some major problems in the situation of children that can be overcome only through the continued efforts of the Government, civil society and national and international development partners, mainly by taking the following measures:

(a) Create the conditions in which regular reviews of the situation with regard to children's rights can be carried out to ensure that aid for government development policies and choices is suited to the current situation;

(b) Create the material, technical and, above all, human and financial conditions for the formulation, execution, evaluation and monitoring of government development policies in general and those targeting children in particular;

(c) Introduce and consolidate mechanisms for coordinating sectoral policies which are directly or indirectly reflected in the status and situation of children;

(d) Continue promoting and taking action in cooperation with partners at home, particularly families, schools and NGOs, and abroad, with the aim of complementing efforts to promote and protect children's rights;

(e) Involve the media in providing more regular and suitable coverage of the question of the promotion and protection of children's rights, which will require better professional training and greater adaptability in this area;

(f) Improve the capacity of the Cape Verdean Juvenile Institute to act by updating its internal statutes and rules and adapting them to the current situation and by increasing its material, technical, human and financial resources.

(8) There is a need to analyse, or analyse in greater depth, or evaluate certain social phenomena in order better to promote and defend children's rights, especially with regard to violence in the home and children who are abandoned or ill-treated by those responsible for them.

(9) A national council on policy for children and young people must be set up to assess and monitor overall policy for these population sectors.

(10) The following measures must be taken urgently:

(a) Harmonize and update legislation on the administration of juvenile justice in general;

(b) In revising the part of Penal Code that deals with crimes against minors, adapt the accusation and punishment for certain types of crime, such as torture, prostitution, abduction, arms trafficking and ill-treatment and, at the same time, increase sentences for cases where children are used in drug-related activities;

(c) Adopt a special pre-trial detention regime for young offenders;

(d) Review social security legislation to make it more favourable to disabled minors who are with their families.

(11) The trend in policies in the areas of children's health and welfare is on the whole positive. The main shortcomings are related to difficulties of a general nature. Health services are effective in many areas and their efforts and greater capacity should be recognized. However, in settings where living conditions are quite precarious, the health services are faced with a difficult situation in that they must first set priorities if they are to optimize their efficiency. The work mentioned in paragraphs 136 to 144 above should be highlighted. It is also necessary to encourage the health services to expand their activities by identifying the areas in which they are stretched, with the aim of improving the effectiveness of their response.

(12) In education, it is necessary to continue to develop and perfect the policies and policy measures being implemented in order to raise standards in:

(a) Women's literacy;

(b) The schooling and education of needy children, especially those from rural backgrounds;

(c) The involvement of children and young people in cultural activities during their leisure time.

(13) Conditions must be created to enable society to participate in its own right in the process of promoting and protecting children's rights; society needs to be kept informed at every step of changes in the situation so that it can fulfil its responsibilities in a critical and responsible way. To this end, practical measures will be taken, including measures to improve the dissemination of studies and documents and to make better use of education workers. Priority should be given to action by local councils in order to encourage them to play a significant role in the preparation and implementation of the overall policy for children and young people.

Notes

[1] World Bank, Poverty in Cape Verde. A Summary Assessment and a Strategy for its Alleviation, June 1994.

[2] Ibid.

[3] NLTPS project, National Long-Term Perspective Studies, Cape Verde, 2000.

[4] UNDP, Development cooperation, Cape Verde, 1995 Report, p. 21.

[5] NLTPS project, op. cit.

[6] UNDP, op. cit.

[7] Report on the Third National Development Plan, 1992 -1993.

[8] Ministry of Health and Social Welfare and UNICEF, Health of children under five in Cape Verde.

[9] NLTPS project, op. cit.

[10] Ministry of Economic Coordination, Mid-term Evaluation of the Third National Development Plan, 1992-1993: Health and Social Welfare.

[11] Health and Children.

[12] Government of Cape Verde and UNICEF, Children and Women in Cape Verde. Analysis of the Situation, Praia, October 1993.

[13] Ministry of Health and UNICEF, op. cit.

[14] Government of Cape Verde and UNICEF, op. cit.

[15] Ministry of Health and Social Welfare, Health Diagnosis, Praia, 1997.

[16] NLTPS project, op. cit.

[17] Office of the Deputy Minister, Poverty Reduction Programme, Contributions by the Departments of Health, Nutrition and Education, 1997. UNDP, op. cit., p. 12.

[18] Cape Verdean Juvenile Institute and UNICEF, Legal protection of children, Praia, 1994.

[19] Ibid.

[20] Ibid.

[21] At the time of writing, Decree-Law No. 12-C/97 of 30 June amending the Family Code has been published.

[22] ICM, "Interview with the President", 21 February 1997.

[23] ICM, "Statistical Data, 1996".

[24] A minor is any person who has not yet reached the age of 18 years. The Juvenile Code entered into force on 1 June 1983.

[25] In 1990, the courts heard 48 cases involving minors under age 16; in 1991, there were 24 such cases.

[26] The Juvenile Protection Committees are collective ICM bodies at the municipal level (art. 17 of the statutes approved by Decree-Law No. 90/82 of 25 September).

[27] The law provides that, if the Juvenile Protection Committees are not operational, their work is assigned to the courts (art. 5 of Decree-Law No. 89/82 of 25 September).

[28] See Ministry of Health and Social Welfare press release of 29 October 1991 (Official Gazette No. 45) and statutory decree No. 4/93 of 8 March (Official Gazette No. 7 of 8 March). According to the decree, vulnerable people include persons on welfare, unemployed persons, destitute persons and FAIRNO workers.

[29] Decree-Law No. 47678 of 5 May 1967 covering all of Cape Verde as subsidiary legislation through Order No. 23101 of 28 December 1967 and brought into force by Decree No. 49/77 of 4 May.

[30] Decree-Law No. 87-A/76 of 29 September. This Law has been superseded by articles 1734-1737 of the Civil Code.

[31] ICM/PNLCS, *Study of the traditional system of foster care for orphans in Cape Verde*, Praia, 1996.

[32] Article 80 of the Family Code (repealed). See article 1943, paragraph 1, of the new Family Code.

[33] Article 87 of the Family Code (repealed). See Article 1943, paragraph 2, of the new Code.

[34] Decree-Law No. 77/85 of 27 July 1985, approving Cape Verde's accession to the Multilateral Convention on the Recovery Abroad of Maintenance.

[35] Judicial agreement between Portugal and Cape Verde, decision 12/76 of 23 June; Decree No. 86/82 of 18 September; agreement with Portugal on recovery of maintenance; agreement with Cape Verde and Angola, decision No. 29/79.

[36] Articles 90 to 101 of the Family Code (repealed). See article 1871 of the Civil Code.

[37] The study projects 2,000 deaths from AIDS by the year 2000, which will increase the number of orphans.

[38] Conclusions and recommendations of the meeting on the presentation and analysis of the results of the research on the traditional system of foster care for orphans, Praia, April 1996.

[39] Article 69 of the Family Code (repealed),. See article 1920 of the Civil Code.

[40] Article 18 of the Juvenile Code; see also article 182, paragraph 2, of the Civil Code.

[41] UNDP, *Cooperation* ... (see note 4 above), p. 12.

[42] Ministry of Health, *Health* ... (see note 15 above).

[43] Ibid.

[44] Ministry of Health and UNICEF, *Health of Children* ... (see note 8 above).

[45] Ibid.

[46] *Health* ... (see note 15 above).

[47] *Health of Children* ... (see note 8 above).

[48] World Bank, *Poverty* ... (see note 1 above).

[49] NLTPS project, op. cit. (see note 3 above).

[50] Article 23 of the International Covenant on Civil and Political Rights and article 20 of the International Covenant on Economic, Social and Cultural Rights.

[51] Act No. 16/V/96 of 30 December adopting the State budget for 1997.

[52] NLTPS project, *Human Resources Development*, p.12.

[53] Ibid., p. 12.

[54] Ibid., p. 7.

[55] Ibid.

[56] Ibid.

[57] Decree-Laws Nos. 6, 7 and 8/97 of 3 February.